United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF

1206 75-7270 WHT

JUN 3 1975 B

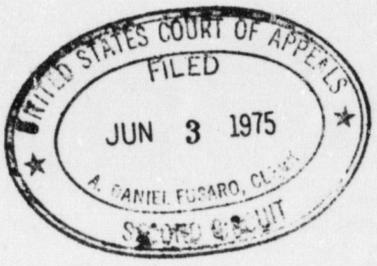
UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CHARLES MERRILL MOUNT,
Plaintiff,

-against-

ALLEN HERBERT ARROW, MICHAEL WARD STOUT, & JANICE LEACH,
Defendants.

Docket No. 75-7270



BRIEF

of the appellant

CHARLES MERRILL MOUNT

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THE ISSUES PRESENTED FOR REVIEW

ABOVE AND BEYOND SPECIFICS of fact and law herein presented for review this appeal raises a fundamental issue whether under the American judicial system the pro se plaintiff untrained in law and who appears unwillingly because our system has provided him no effective legal counsel has the capacity to frame a cause of action or effectively to plead with respect to statutes of which he must be unaware. Its corollary is whether in good conscience this burden should be borne by the pro se plaintiff. By his evident limitations of knowledge and resource the pro se plaintiff deals almost exclusively with the facts of his grievance. Everywhere a remarkable profusion of decisions assure him that this is sufficient for the purpose of obtaining remedy, for the courts outspokenly and consistently admonish themselves to treat the complaints and pleadings of pro se plaintiffs with an especial liberality. Even so in a sixteen page decision dated April 2, 1975, the present cause of action presented in considerable detail by plaintiff acting pro se was found deficient and dismissed by the District Court which stated that while plaintiff "has properly invoked the subject matter jurisdiction of this Court under 28 U.S.C. Section 1331 ... we further conclude that plaintiff

has failed to state a claim upon which relief might be granted."

This is not a cause of action with abstruse or evasive nature. Plaintiff brings complaint that his own cousin and attorney hid his lawful wife and four minor children in his New York law office, then in an apartment in the same city, and while making fraudulent misrepresentations of ignorance to him arranged to smuggle his loved ones out of this country without due process. By effecting this the unethical attorney and his co-conspirators at the same time converted property valued in excess of $20,000 which had been stolen from plaintiff's house and which, by assistance of his wife, he had been struggling tc re-possess. With notable delicacy towards this pro se plaintiff painfully struggling for justice in the midst of a resultant poverty and illness Judge John M. Cannella notes that plaintiff failed to state a claim under the conspiracy section of the Civil Rights Act, 42 U.S.C. Section 1985 (3). Judge Cannella cites Griffin v. Breckenridge, 403 U.S. 88, 101 (1971) wherein the Supreme Court recognized that Section 1985 (3) embraced private conspiracies such as that herein alleged and was not limited to instances of state action. Judge Cannella further quotes Mr. Justice Stewart who cautioned that regard must be given to the congressional purpose:

> ... by requiring, as an element of the cause of action, the kind of invidiously discriminatory motivation stressed by the sponsors of the

limiting amendment ... The language requiring intent to deprive of equal protection, or equal privileges and immunities, means that there must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirator's action. The conspiracy, in other words, must aim at deprivation of the equal enjoyment of rights secured by the law to all.

By this frame of reference Judge Cannella finds "In the instant case, Mr. Mount does not demonstrate a 'racial, or ... otherwise class-based, invidiously discriminatory animus behind the conspirators' action against him." Awareness that such elements may in fact have been present is remarked:

> Although at points in the complaint he does make reference to his Jewish faith, it appears to the court that such reference to Mount's religion are not to be considered allegations of the complaint or as a basis for defendant's conduct, but only as passing points which seek to give context and frame of reference to the pleading.

The decision of the District Court is only seen in perspective when frank admission is made that the two statutes to which Judge Canella made reference, 28 U.S.C. Section 1331 by which plaintiff "properly invoked the subject matter jurisdiction of this Court" and the Civil Rights Act, 42 U.S.C. Section 1985 (3) by which he

"failed to state a claim upon which relief might be granted" were equally unknown to him. Conscious of the indulgence which brought forth a sixteen page decision from the District Court, complaining of no lack of attention or consideration, plaintiff nonetheless must beg more indulgence on review under the established rule that pro se complaints are to be read with especial liberality: Haines v. Kerner, 1972, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed 2d 652; Goff v. Jones, 5 Cir 1974, 500 F. 2d 395; Dickinson v. Chief of Police et al., 5 Cir. 1974, 499 F. 2d 336. Plaintiff does so with the assurance to all that never in his wildest imagining did he ever consider that one day he might be pleading his own flawed knowledge before any judicial body, and that, indeed, far from seeking profit from his current unhappy situation, never at any time was he interested in law either as a study or profession. Dragged willy-nilly before this high court because of the unknown fate of his children, feeling wholly unworthy and incompetent but obliged to do a father's duty, plaintiff suggests that in earlier decisions it has been found that only if the District Court reading a pro se complaint with extreme liberality believes "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief" can dismissal be appropriate: Haines v. Kerner, 1972, 404 U.S. at 521-522, 92 S. Ct. 596, 30 L. Ed. 2d 652; Conley v. Gidson, 1957, 355 U.S. 41, 45-46, 78 S. Ct. 99, 2 L. Ed. 2d 80.

Other considerations must color the nature of pleadings brought by a plaintiff not a lawyer for they must inevitably reflect his personality and beliefs. The present plaintiff's path in life has brought him to the area of the arts where he would like to consider his awareness equal to that of any and even that he is an "expert" in the certain limited areas memorialized in his published tomes and articles. Plaintiff feels himself broadly cultivated because he can converse on such disparate topics as the theory of Napoleon's battles, medieval history, American Presidents, and the leaders of Ireland. As a professional man of a Jewish origin which during the peak of his career he almost forgot, and a person whose only happiness was found in Europe married to an Irish Catholic spinster his own age, he has a natural disinclination to broach the subject of religion. Until submission of defendants' brief before the District Court his awareness never had been disturbed by existence of the Civil Rights Act, U.S.C. Title 42, Section 1985 (3). Such reference as plaintiff made to the United States Constitution derived from the text of that document found in a history book appendix brought home from school by his eleven-year-old son. Appalling as these revelations must appear plaintiff balances them by the suggestion that probably no member of the Federal Bench can paint so good a portrait as he does, nor probably could any of those learned men write a biography equal to that plaintiff published of MONET (Simon & Schuster, New York, 1967).

More to the point, probably no member of the Federal Judiciary has inclination to compete with plaintiff in the area of his professional attainments, and this compliment is one that plaintiff fervently returns. Plaintiff appears before this court uniquely as a father to do a father's duty. The lives, thought, and endeavor of those who have reached the eminence of the Federal Bench rest in a different area from those of plaintiff, and his reticence on the subject of religion and his abject ignorance of statutes are as natural to his way of life as is nobility of sentiment and urbanity of expression to the Federal Judiciary.

This is not to say that characteristics required to frame a complaint for pleadings under U.S.C. Title 42, Sections 1983 and 1985 (3) do not exist in the complaint and fact situation which plaintiff presented to the District Court. After reference to the actual statutes plaintiff finds that he has a substantial cause of action in respect of a conspiracy which aimed at a deprivation of the equal enjoyment of rights secured by law to all, but which would have been denied him through invidious discriminatory animus on the part of the conspirators. The problem lies not in the fact situation but the manner in which he presented it due to limitations of knowledge and ignorance of the statutes involved and in the peculiarity that the court failed to have hearing at which this might have been explored and relevant facts elicited from him.

The common fault of the pro se plaintiff is to draft his complaint in narrative form. In so doing he relies upon knowledge

that the courts universally hold they have a special duty to examine his puerilities for any possible theory of fact upon which he might be entitled to relief. The pro se plaintiff therefore attempts to set forth his deprivation honorably and with dignity, in paragraphs whose numbering sometimes is appropriate and sometimes otherwise. Matters which appear to be extraneous to the central issue, in this cause of action what plaintiff saw to be the deprivation and not the motivations of those responsible for it, are pruned away out of neatness and to reduce the possibility of confusion. The court is led direct to exposition of the deprivation in detail and nothing else. If the pro se plaintiff has natural fastidiousness on the subject of religion due to marriage to someone of another faith for example, or if he believes that his profession as artist is honorable and worthy, the entire basis on which to show invidious discriminatory aniumus against himself either because of racial or religious or otherwise class-based motives fails to reach the court. If the pro se plaintiff is unaware that the Constitution no longer stands in splendid isolation as he was told in college and now instead is hedged and limited and interpreted by titled and sectioned statutes he will certainly fail to present a theory appropraite under those statutes to the wrongs he has suffered. It would seem excessive levity to suggest that the male population of the United States must be told in notices published by the Attorney General not to father children without first reading the statutes, yet in the context of this cause of action where plaintiff was denied remedy

by the District Court for precisely that failure such advice would appear obligatory.

Yet even this present pro se plaintiff, so wronged that he is despoiled of everything he ever earned in his lifetime and even the funds to find redress for his grievances, has a right to the "equal protection, or equal privileges and immunities" which Mr. Justice Stewart cautioned is found in the congtessional purpose behind the limiting amendment to U.S.C. 42, Section 1985. One might even consider that by this same same statute pro se plaintiffs are themselves a class-based entity against whom no invidiously discriminatory animus can be shown nomatter how badly they present the bare bones of a genuine and legitimate grievance to which right to redress exists. For among the persisting inequities of the American way of life is that the judicial system is the last bastion to retain a property requirement. The price of justice has become prohibitive to the private citizen. The present cause of action demonstrates that a forty-seven year old professional artist with one remaining functioning kidney, who is honorable and above reproach in every respect, whose views on life and art and culture and civilization can be examined in libraries and universities throughout this country and whom is celebrated as a "savant" in the principle museums of the world, finds it necessary to undertake personal inexpert manipulation of legal formulas because his four minor children were torn from him by a conspiracy of persons who employed their professional knowledge of law to defraud him without due process. Acts essentially criminal

and tortious and carried out without resort to the courts have thrust upon him the burden of a litigation which no referal service or system of public representation will undertake in his behalf. The famous Legal Aid Society for example specified that it would help him obtain a divorce but render no other service. This is no remedy to a man who does not wish divorce from persons he loves. And so whereas the criminal and tortious matters of which he complains are self-preserving and self-perpetuating, to seek redress an honorable man of middle age whose qualifications lie elsewhere has been obliged by an American system of justice to appear before tribunals and is expected to plead statutes of which he has no knowledge.

To the simple layman's view it should be sufficient to demonstrate conclusively by evidence that a wrong has been committed, leaving to the learned persons of the court to establish which of the statutes is appropriate for punishment of the wrong-doers. The burden of arguing a statute is an unnatural burden to an ill man already deprived of all material things he possessed in addition to those more treasured possessions of wife and four minor children, three of whom he has not seen in four years and whose continued existence he cannot verify. Obligation to shoulder this burden on the face of it appears not to be <u>equal rights</u> by the very standards of which Mr. Justice Stewart made note when cautioning that regard must be given to the congressional purpose: "... The language requiring intent to deprive of <u>equal</u> protection, or <u>equal</u> privileges and immunities, means that

there must be some racial, or perhaps otherwise class-based, invidious discriminatory animus behind the conspirators' action. The conspiracy, in other words, must aim at a deprivation of the equal enjoyment of rights secured by the law to all." By reason of my precarious profession, present poverty, religion, and a well-known social animus against artists as a class, I have been so deprived. Because the law does not provide legal representation to secure those rights which it otherwise would appear to sponsor question must arise whether any person not possessing a property requirement, or whom, like the present plaintiff has been deprived as part of the same conspiracy giving rise to the cause of action of that necessary property which would enable him to obtain legal representation, can be considered to be an equally enfranchized citizen of this country or to have "equal enjoyment of rights secured by the law to all."

In discussing the issues and facts which establish that I have a substantial cause of action under 42 U.S.C. Sections 1983 and 1985 (3) I therefore expand on those matters inherent in the fact situation presented before the District Court but which, by pro se ignorance and ineptitude, were not developed to the same degree they would have been were I not a pro se plaintiff, or alternately, to the same degree they would have been were I able to employ professional legal counsel to do this task in my behalf. Further license to develope the facts in this fashion is found in the undoubted omission of any hearing at District Court before publication of its decision, since in the circumstances a hearing was obligatory to

elicit an understanding of matters of profession and religion and the animus against me in respect of them which is contained in the Complaint and the pleadings but not appropriately developed pursuant to the statutes.

My submission is that I have been wrongly deprived of my four minor children without due process and also deprived of my lawful wife, and in two stages deprived of property valued in excess of $40,000, because (1) of a racial bias towards me as a Jew, and (2) because of a racial bias on the part of my own blood relatives against my minor children because of their origins with an Irish and Catholic mother; and also (3) because the three named defendants considered that in my professions and as a currently impecunious artist and art historian I am a class of human being socially inferior to them; and that this three-fold invidious discriminatory animus lay behind their conspiracy against me which deprived me of the "equal enjoyment of rights secured by the law to all."

STATEMENT OF THE CASE

A

NATURE OF THE CASE

This cause of action presents a straight-forward matter wherein the defendants who are professional attorneys acting in conspiracy and especially Allen H. Arrow, plaintiff's cousin and personal lawyer throughout his lifetime, on June 10, 1971 undertook to hide in their law offices in New York City plaintiff's lawful wife Sarah Long Mount and his four minor children for the purpose of smuggling them from this country without due process of law. While so engaged defendant Arrow made repeated representation to plaintiff by telephone that he had no knowledge concerning the whereabouts of plaintiff's wife and children and though he proceeded to lodge the said wife and children in an apartment in New York City which he provided for the purpose throughout this time and for some years thereafter he persisted in misinforming the plaintiff. Plaintiff does not here go into the lack of ethics involved but views the matter directly as one wherein a succession of grave deprivations occurred and plaintiff holds that no reasonable motive of any kind can have existed since the defendants had in their files a statement by the family doctor which explicitly stated that she was "slowly drifting into schizophrenia" and thus an incompetent.

The effect of these actions taken without due process not alone was to deprive plaintiff of his loved ones but to complete conversion of chattels and other personal property valued in excess of $20,000 which had been stolen from plaintiff's house in Ireland, and which, through his wife plaintiff had been attemptiing to repossess. The net effect of smuggling plaintiff's wife and childreh out of this country thus went beyond the primary deprivation and extended to completion of conversion. To prevent uncovering of their acts the defendants betrayed plaintiff when he went in search of his wife and children so that he was arrested in a foreign country on information they provided, sentenced to a term in prison for a presumed "contempt", and had the additional humiliation of deportation which closed the courts of the foreign nation to him for purpose of civil action and prevented him from recovering any but one of his children. Plaintiff therefore lost the whole of the converted property with the additional deprivation that defendants burglarized his baggage for the purpose of removing evidence of their previous acts and unrelated items valued in excess of $20,000 also were removed.

Impoverished and in declining health following these deprivations plaintiff was obliged to file complaint pro se in the District Court for the Southern District of New York January 14, 1975, which was followed by service of defendants' undated Answer denying all allegations. February 3, 1975, plaintiff filed notice of motion for summary judgement pursuant to Rule 56 (a) supported by affidavit sworn to the same date and on February 6, 1975, this was followed by filing of an Amended Complaint. February 28, 1975, defendants filed notice

of motion under FRCP 12 (c) for an order dismissing the complaint which motion was proceedurally defective on which ground plaintiff opposed same by affidavit sworn to March 1, 1975. Though defendants who are attorneys filed only the one proceedurally defective motion in this action and its defects were admitted in the District Court decision dated April 2, 1975:

> Although the defendants have moved under Fed. R. Civ. P. 12 (c) for judgement on the pleadings and that motion is apparently defective ...

the motion of pro se plaintiff properly before the court was denied and his complaint dismissed on the technical basis that pursuant to U.S.C. 42, 1985 (3) it "has failed to state a claim upon which relief might be granted."

The District Coyrt decision would appear to be wanting in the desireable liberality required for examining the complaint of a pro se plaintiff whose grievance is genuine and who suffers unlawful and unnecessary deprivations in respect thereof. Indeed that same liberality would appear to have been exercized instead towards the defendant attorneys by accepting for consideration and granting a motion which in their professional status they should have known to be defective. The deficiencies were so blatant they were recognized even by the pro se plaintiff in his affidavit sworn to March 1, 1975. The necessary balance between a pro se plaintiff and professional attorneys who employed their knowledge of law to do him deliberate harm therefore appears to have been upset and misconstrued by the District Court.

Extensive study of the pleadings and especially plaintiff's personal affidavit in support of his motion for summary judgement and annexed exhibits is not required to discren that issues necessary to state a cause of action pursuant to U.S.C. 42, 1983 and 1985 (3) exist throughout. To turn away plaintiff's plea for remedy and to grant the defective motion of defendant attorneys thus seems unduly harsh. A professional artist of some distinction who is also a well-known historian and "expert" on a variety of historical subjects and matters, plaintiff has suffered throughout his life from the social discriminations everywhere evidence in this country towards artists. His choice of profession put him outside the pale and created conflict of basic sort with a society which is money-orientated and looks with distruct upon any person devoted to the Muses rather than Mammon himself.

This historic alienation between the American people and individuals who produce art is too obvious to be challenged and results in a discrimination as general and constant as that towards persons who equally fail to conform to the social norm by carrying a yellow or black skin or speaking with a foreign accent. The artist is not a member of American society in most intimate sense and he is harrassed by mistrust in all his contacts with patrons, prospective employers, banks, landlords, and the courts. By choice of profession alone he therefore has become widely suspect and this is purest social discrimination since it does not arise from personal qualities or

acts of the individual and is not amelioated by the most bourgeoise habits or appearance, as on the part of the present plaintiff. In addition plaintiff is a Jew who found obsessional reaction against himself on that basis on the part of an older brother of his Catholic wife. After plaintiff's wife became mentally unstable and so was stated to be by her family doctor in a written report her brother obtained for her by personal behind-the-scenes contacts and manipulations a judgement for custody of children from a court in Ireland. In hearing held plaintiff was not permitted to take the oath on the Bible on the ground that he was a Jew. This judgement is highly suspect on the face of it and does not conform to the requirements of law in this country. It has the additional default that immediately it was repudiated by both parties to it who continued to live as man and wife in New York City. Plaintiff's wife even made affidavit in this city (annexed hereto as EXHIBIT A) wherein she further repudiated that foreign judgement by stating that she never had been a party to it:

> ... though the Guardianship Proceedings were titled Mount vs. Mount my role was only one of convenience by which my brother Joseph Long of 16 Highfield Road acted to despoil my husband of everything he possessed.

Defendant attorneys' claim made before another tribunal in this state that they acted under color of law as an arm of the Irish

Government to enforce the said foreign judgement (annexed hereto as EXHIBIT B) must therefore be considered in the context of their otherwise improper and unethical acts but provides grounds pursuant to U.S.C. 42, Section 1983, for judgement against the defendants for "deprivation of any rights, privileges, or immunities secured by the Constitution and laws" since defendants' claim to have acted "under color of law" by Article 6, clause 2, of the United States Constitution includes the Consular Convention with Ireland under which the enforcement of foreign judgement may have been carried out.

B

SOCIAL DISCRIMINATION ON A BASIS OF MONEY-ORIENTATION

The life story of every American artist provides examples of invidious discriminatory animus and the phenomenon is seen to be so broad-based as to be a generalized social attitude of magnitude equal to that held towards persons who fail to comply with the social norm by reason of black or yellow skin or foreign accent. Within the classification of a class-based social phenomenon recognized by Mr. Justice Stewart alongside racial discrimination it represents an active and long established animus which extends beyond particularities of individuals and cases because it acts against all persons found in

the category. A theorem frequently put forth states that American soil is not propitious to cultivation of the arts. As the most vocal supporter abroad of the native American genius plaintiff feels contrained to express himself cautiously. Genius does not necessarily flourish in the same soil that first nurtures it and in writing of American portrait painters it is notable that plaintiff has concentrated on two, JOHN SINGER SARGENT (W.W.Norton & Co., New York, 1955; Cresset Press, London, 1957; Kraus Reprint Co., New York & Nadeln Liechtenstein, 1969) and GILBERT STUART (W.W.Norton & Co., New York, 1964) the principle glory of whose careers derives from their lives spent as expatriates in Europe. Both men were of highly respectable origin. Gilbert Stuart (1755-1828) was nephew to Joseph Anthony a prominent Philadelphia banker related by marriage to Michael Hillegas the first Treasurer of the United States. John Singer Sargent (1856-1925) was product of one of Boston's oldest and most distinguished families which to this day produces captains of industry and finance. Though the careers of these men were separated by exactly a century they had the common experience that they rarely produced their best work in America.

The characteristically mercenary aspect of a young people anxious to get ahead is not alone product of this country but found equally in Australia, New Zealand, and South Africa. In America art has had the constant misfortune of being produced on demand of parties without cultural heritage in the visual arts whose demands were stultifying.

Both Gilbert Stuart and John Singer Sargent were obliged to simplify, tighten, and harden their manner of work when they arrived in this country. To earn a living by the arts in America had corollary of producing a secondary category of work acceptable to persons who could pay for the best without recognizing its highest characteristics. This was the reverse of the European experience wherein to earn his living the artist was obliged to emulate or exceed the finest qualities of Michelangelo, Titian, Raphael, and Van Dyck, with which patrons not only were familiar but of whose work possibly they owned examples. A consequent rude awakening accounts for the sudden falling off of quality found in the multitudes of vigorous and able American students who filled Europe's academies in the last century without producing commensurate art on returning home. Their tragedy was not that they failed to live up to their own early promise but that they were betrayed by the hostile money-orientated and discriminatory environment to which they brought back their extraordinary gifts and training. This remains the common experience of aryists in America.

Professionals of considerable gifts and excellent training like Robert Fulton and Samuel Finley Breese Morse, both of whom studied in London with Benjamin West (1738-1820) Philadelphia born President of the Royal Academy, on returning to this country abandoned their professions to become successful "inventors" and engineers. Those like West, Copley, and Whistler who stayed abroad led productive lives and died filled with honor. Those like Washington Alston, Frank Duveneck,

Carroll Beckwith, and Denis Miller Bunker who returned lost the creative impetus that had distinguished them abroad. No better expression of the common attitude is required than reference to the belief so widely held among our people in this country that creative artists are an inferior class or social phenomenon apart from the common run who invariably suffer from the twin evils abhorent to Americans of insanity and inability to earn a living. Caught in these meshes the individual of creative capacity is helpless and the legend of the starving bohemian spawns the reality in this country.

The invidious discriminatory animus against producing artists must be compared with the counter-culture of the museum which has taken the place of the medieval cathedral by enshrining art as an object of veneration. The obvious affluence of the institution itself attested by vast halls, high ceilings, columns, draperies, marble floors, and hushed attendants, transcends the social barrier to make pictures and statues respectable. Confered by its monied environment this respectability of great art has made enormous strides in this country especially in the last quarter century. Hardly a city or college of any size exists without its museum functioning like the medieval cathedral as both holy shrine and social center. Obeisance is made to the local Gods, those who earned a living to such extent they were able to build and endow the temple of useless and unused luxury. This neo-religious phenomenon exists without relation to the youthful person taught by such institutions or at his college that art is a cultural heritage or worthy profession, for once

desires have been translated from stately museum halls to the deprivations of the studio the basic invidious discriminatory animus is imposed automatically and he becomes prima facie one who is insane and cannot earn a living. Here too the parallel to a religious function is born out by the fact that mothers who urge piety upon their sons may accept that they live in the splendid marble halls as a Bishop, but rarely desire that they seek the crucifixion of a martyr Saint.

Should the high principled young person embarking on a career as an artist be from Jewish background his plight is intensified by the unfortunate exaggeration in those quarters which fastens upon both ends of the phenomenon. To those of Jewish origin the arts themselves are abhorent, possibly throggh some tribal or instinctual survival of the ancient injunction against creating graven images. Alone the vast wealth tied up in art on the part of social leaders and bankers like Robert Lehman gives it overt respectability and special acceptability which makes appreciation a desireable social activity. They therefore fit into the cult of the museum whose orientation is produce collectors and benefactors rather than creative artists. In its original sense of a house of the muses the museum has the further function of casting upon those who populate its halls that specially radiant social ambiance which is the cynosure of desire on the part of people whose previous function was to acquire wealth. Let the same high-principled young person stray from that social

ambiance into an effort to emulate the mastery and aesthetic experience he has studied and the other end of the scale hoves into view with immediate expression of the commonly held view that he is insane and unable to earn a living.

As a young portrait painter of Jewish origin in this city plaintiff had the unsual experience of researching and writing a biography of the great American artist John Singer Sargent. Following publication in 1955 plaintiff was granted a Fellowship by the John Simon Guggenheim Memorial Foundation and immediately found himself, at the age of 27, one of this country's foremost art historians. The purpose of the Fellowship was to provide opportunity for reasearch in Europe, to where plaintiff sailed off in August 1956 without knowledge of what lay before him. Previously having rude experience of the American attitude towards anyone practicing the ancient and honorable profession of portrait painter plaintiff immediately was relieved to find that the invidious discriminatory animus which lay so heavily upon him in America was absent in Europe. For the first time plaintiff became a respectable professional and having previously experienced domestic problems derived from the same class-based or money-orientated social attitudes, especially on the part of his closest family who were of Jewish origin, it is accurate to say that he failed to return to the United States for no better reason than that he lacked courage to face that animus once more. Plaintiff's career

flourished. The decade of the sixties witnessed an annual income of between thirty and forty thousand dollars from his combined activities as portrait painter, historian, and museum lecturer. Never salaried, living quietly in Ireland, he married a second time and had four children of that marriage, and established for himself an honorable and stable position in society as the friend and confidante of an old aristocracy who valued him for his special gifts.

That position crumbled on publication of libels and plaintiff returned to this country in December 1969 only reluctantly and impelled by two considerations. The first is memoralized in the letter annexed as Exhibit 21 to his affidavit sworn to February 3, 1975, of Hon. Whitmann Knapp, plaintiff's longtime friend and then an attorney in private practice, who supported the belief of others that only in America could plaintiff find equality and common justice with respect to the custody of his children. As a Jew in a wholly Catholic Ireland it already had been impressed on plaintiff that cards were stacked against him. This was true even though plaintiff all but had fogot his Jewish origin and habitually attended mass with his Catholic wife and children, for in custody proceedings before the High Court of Ireland plaintiff was not permitted to swear an oath on the Bible because he was a Jew. The second consideration was the pledge given by plaintiff's father, a Jewish doctor in this city of some personal wealth acquired through his practice and from investments in real estate, that were he to return to America

he would be provided with funds sufficient to enable him to take up the practice of his profession as a portrait painter in New York City. The rude awakening that awaited him in America was a complete denial by his father that any such pledge ever had been given. Even when plaintiff's mother made angry demand that the pledge be kept, the answer was "Let him go get a job!" By lack of caution and by overlooking the basic American discriminatory animus against persons engaged in the arts plaintiff walked into the situation where ever since he has been unable to practice the profession upon which his fame principally rests.

The defendants made so little submission before the District Court that it becomes proper to repair the omission of a hearing by examining their expressions concerning related proceedings before the State Court (EXHIBIT B) where Allen H. Arrow, an attorney, sought injunction to prevent plaintiff "communicating his alleged grievances concerning ... Allen H. Arrow, and/or the law firm Orenstein Arrow Silverman & Parcher, P.C. to colleagues, clients, and/or associates of the said law firm to any person not a party to the lawsuit captioned Mount v. Arrow, 75 Civ. 173, presently pending in the United States District Court for the Southern District of New York ...." This petition was dismissed by Memorandum Decision dated April 15, 1975, on the basis that it violated plaintiff's constitutional rights under the First Amendment, and the mentioned law firm forthwith collapsed as Arrow was locked out of the Los Angeles offices by Harold Orenstein who quit the New York firm rather than be

associated with him. Orenstein confirmed by private letter to plaintiff the causes of this collapse and among the many other lawyers who quit at the same time another stated he did so over "difference of opinion on how to practice law." Nonetheless this cynical petition provides the only substantial views of defendant Arrow.

Apart from allegation that plaintiff engaged in statements that were false and defamatory the thrust of Arrow's petition before the State Court revolved about his unsupported statement that plaintiff was insane and unable to earn a living. It is not uncharacteristic of plaintiff's profession as portrait painter that he would not have a salaried position. Sir Anthony Van Dyck (1599-1641) received an annual stipend from King Charles I of England, but this was unusual, and historians have spilled much ink to acknowledge that it was but rarely paid and that an invoice in Van Dyck's script exists to show he failed to receive payment from the king for 25 items of pictures some of which had been delivered six years before. The notebooks of Sir Joshua Reynolds (1728-1792) on deposit at the Royal Academy, London, demonstrate that despite execution of sometimes in excess of a hundred portraits a year payments were received on an irregular basis. By its nature the art of portrait painting is a personal service separately contracted in each instance. Suggestion of a salaried position is hardly applicable either in the long historical perspective or in consideration of present day conditions.

Plaintiff's separate profession as historian likewise has given

to honor, celebrity, and Fellowships, but is based upon the production of exhaustive tomes sometimes researched or written with Foundation assistance but always separately contracted with publishers. Here too the suggestion of a salaried position is not in conformity with the nature of the operation, and though plaintiff is celebrated throughout the world as both artist and historian, has assisted museums, assembled exhibitions, founded libraries, and written literally hundreds of authoritative studies published by museums and in professional journals at no time in his life was he salaried. Included in the pleadings before the District Court and paragraphs numbered 34 to 43 of plaintiff's affidavit sworn to the 3rd day of February, 1975, is that plaintiff's eminence in his twin fields caused envy on the part of a half-literate Boston librarian whom in 1967 caused grave criminal libels to be published against him on the front page of a London Sunday newspaper which the following day were reprinted by THE NEW YORK TIMES and since have appeared in other newspapers, magazines, and books. It is well known to the courts and to members of plaintiff's family, among them his counsel and former attorney Allen H. Arrow, that relevant to these libels plaintiff has fought a succession of pro se actions beginning in State Court and now spread to the District Court at Boston. Linked with the libels were efforts of the libellists to take possession illegally of plaintiff's valuable copyrights, which has given rise to related actions in District Court pursuant to U.S.C. Title 17.

Neither in the libel actions nor in the copyright actions has any defendant before any court been able to make factual averments

in his own behalf. The principle libellists and copyright infringers David K.M. McKibbin and Richard Ormond are now widely discredited and a contract held by David K.M. McKibbin from the National Gallery of Art at Washington to produce a book on plaintiff's subject John Singer Sargent in January 1975 was summarily cancelled. In the hope of realizing substantial damages at last plaintiff has refused repeated offers for settlement made by the publishers of the so-called Richard Ormond book. Existence of the libels and copyright infringements and plaintiff's pro se failure to date to realize substantial damages (small damages have been paid) has meant the loss of plaintiff's substantial pre-libel earning capacity.

Plaintiff's persistent and unremitting efforts over a period of years to set in order his professional problem is the background against which the present conspiracy on part of the named defendants was carried out. Its origin as a deliberate attempt to foul him cannot be ignored. This is the context in which to examine the paragraph numbered 16 of Arrow's affidavit sworn to March 17, 1975, for presentation to State Court (EXHIBIT B):

> While it grieves me to say this about a blood relation, particularly one to whom I have tried to be of help, it is obvious from reading of Mr. Mount's pleadings and affidavits in the Federal Action, and from letters, that his mind is no longer functioning rationally ... This is particularly true in view of the fact that, upon

> information and belief, defendant, a middle-aged former writer and artist, is presently, and has been for some time, without steady employment and has been living off the largesse of his parents.

This paragraph expresses in purest form the basic invidious discriminatory animus against those engaged in the arts. While plaintiff has taken bold initiatives to find remedy for grievances by appeal to the courts, and unremittingly and over a period of years has pursued justice and final vindication in that proper forum where his cousin and former attorney in no way has assisted him, the same cousin and former attorney employs these same signs of determination to predicate that plaintiff's "mind is no longer functioning rationally", that he is "a middle-aged former writer and artist", and that he "is presently, and has been for some time, without steady employment ...."Nowhere is acknowledgement made that it was while "without steady employment" throughout a long and honorable career that plaintiff built up the international fame which caused him to be libelled on the front pages of newspapers in London and New York and to have his copyrights stolen.

When the equally Jewish origin and oreintation of Arrow are taken into consideration no doubt can exist that he expresses a money-orientated invidious discriminatory animus which seeks to interpret plaintiff as a man whose former respectable affluence has been destroyed and who therefore a prioi is unworthy of social

equality or consideration and whom also must be insane. On a simpler plane it is direct expression of the basic money-orientated social discrimination which since the foundation of this country has worked against all persons laboring in the vineyards of the arts.

Even before he entered into the active conspiracy which constitutes this cause of action Arrow's responses to the unfolding situation were predicated on his money-orientated social discriminatory animus. Thus, by EXHIBIT 16 attached to the affidavit sworn to February 3, 1975, plaintiff submitted to the District Court his letter to Arrow dated September 11, 1968, in which his domestic situation was set forth in specific detail:

> ... Conditions in this house continue to be deplorable. My wife is ill, nauseous, frequently in tears, and unstable both emotionally and mentally. The doctor was treating her for a general nervous collapse complicated by aspects of paranoia, but she now refuses to see him and it is all I can do to cope.

The instability of Sarah Mount is set forth with greater detail in paragraphs numbered 48 et seq. of the same affidavit wherein it is shown that soon after her mental state began to cause concern she not alone disappeared, abandoning her husband and four cleeping babies, but seized the contents of her husband's account with the Munster & Leinster Bank to leave the abandoned husband and children without funds. In September 1969 plaintiff forwarded to Arrow a copy of the statement prepared by the family doctor, James J. Magill,

with its summation that:

> ... having observed Mrs. Mount over the last three and a half years that she is gradually drifting in schizophrenia. Her affect dissociation, apathy, and misplaced hostility are in keeping with this diagnosis and the more recent entry of paranoid attitudes would confirm this view.

Under heading numbered 3 Dr. James J. Magill had examined the recurring problem of Sarah Mount's violence and that passage is here given in full:

> 3. Aggression. On many occasions in the last eighteen months Mrs. Mount has displayed sudden outbursts of hostility and aggression towards myself and her husband. This particular response was completely out of keeping with the situation which merited it.

Further reading of this learned statement which it has been confirmed to me orally by Howard Leventhal, the sole remaining associate of Allen H. Arrow's law firm, is still in the files maintained by Arrow shows that Arrow must have been prepared for precisely the actions and responses which Sarah Mount evidenced in New York and which her husband was struggling to control and overcome. Moreover Arrow was aware that Sarah Mount's mental state had shown sign of taking a criminal turn and in some way she was personally involved in the burglary of plaintiff's house wherein he lost chattels, clothing, works of art, and personal and research records valued in excess of $20,000. Yet in June 1971 Arrow determined to engage in active conspiracy with this woman "gradually drifting into schizophrenia" to accomplish the final conversion of the stolen property and the means of which was to hide Sarah Mount and plaintiff's

four minor children in his office and a New York apartment before smuggling them out of the country.

In justification of his acts Arrow makes no reference to the mental state of Sarah Mount concerning which he had been fully informed for at least three years prior to his conspiracy. Instead he postulates abnormality on the part of plaintiff. Concerning Arrow's willingness to hide Sarah Mount when she arrived at his New York office June 10, 1971, plaintiff put this Interrogatory April 5, 1974 (affidavit of February 3, 1975 (supra) EXHIBIT 28):

> QUESTION:
> (10) As you are closely connected by blood to Mrs. Mount's husband, why did you not immediately contact him?
>
> ANSWER:
> (10) Mrs. Mount was extremely agitated and advised me that she was in fear of suffering serious bodily harm from her husband. Mr. Mount's mother had previously indicated to me that she feared that Mrs. Mount was suffering abuse from Mr. Mount and I believed that such fear was reasonable.

Possibly it is irrelevant that in person and during (suppressed) Oral depositions taken by Arrow the plaintiff's mother has denied stating to Arrow that she feared plaintiff's wife was suffering abuse and says that such information as she received came exclusively from Arrow. That detail aside it is nonetheless unmistakeable that the known, recorded, and medically attested instability of Sarah Mount is dismissed by Arrow in favor of a personal belief she had "reasonable" fear of her husband. On what basis therefore was it reasonable that a woman who for three years had shown herself unstable

and aggressive and hostile should be in fear of suffering abuse. The answer can reside in nothing other than Arrow's invidious discriminatory animus against plaintiff for his choice of a profession which pre-supposed in his mind inability to earn a living and insanity. Despite an overwhelming contrary evidence Arrow attached this insanity not to the notoriously unstable wife but to plaintiff because of the common animus against any person however honorable, bourgeoise, upright, and stable, whom in this country attempts to follow the profession of an artist.

C

DEPRIVATION OF RIGHTS UNDER U.S.C. TITLE 42, SECTION 1983

Arrow who did not defend the District Court action except by submission in behalf of all of Memorandum upon the limited topic of jurisdiction was more forthcoming by personal affidavit sworn to March 17, 1975 for submission to a related State Court action in which he was plaintiff. There Arrow made claim to have been enforcing the judgement of a foreign court. In part his paragraph numbered 3 (EXHIBIT B annexed) reads:

> Before these events, it appears that defendant's wife secured some type of judgement against defendant from an Irish court which, upon information and belief, awarded her custody of her children (who were born in Ireland) as well as the matrimonial

> domicile (located in Ireland), and enjoined defendant from harrassing her ....

The quoted passage is a legal maresnest skating precariously from misrepresentation to perjury and back but it is not significant to the points of law here being considered that no such all-embracing judgement as Arrow invents ever existed, that the children were not all born in Ireland as is shown by the certificates of birth submitted to the District Court, that the court made no mention of the "domicile" or "harrassing her". The State Court recognized these matters by dismissing Arrow's petition. However speciously his case is put Arrow surely is claiming that he acted "under color of law" for the relations of this country with other countries insofar as they are regulated by Treaty are declared by the Constitution, Article 6, clause 2, to be "the supreme law of the land." The requisite portion of the Constitution is explicit:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the Supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.

The problem is intensified by an area of broad and unspecified powers granted to Consular Officers and other representatives of the Republic of Ireland in this country by the Convention and Supplementary Protocol between the United States and Ireland signed at Dublin May 1, 1950 and March 3, 1952 and which entered into force

June 12, 1954. Part IX, Article 28, sections 1 and 2 of this Treaty lend themselves to such abuse as Arrow has made by stating:

> (1) The provisions of Article 15 to 27 relating to the functions which a consular officer may perform are not exhaustive. A consular officer shall be permitted to perform other functions, involving no conflict with the law of the receiving state, which are either in accordance with international law or practice relating to consular officers recognized in the receiving state or are acts to which no objection is taken by the receiving state ....
> (italics supplied)

This provision of broad inherent powers permits a consular officer to do anything which is bot direct cause for rejection or recall. The broadness of these undefined powers are underscored by section 2:

> (2) It is understood that in any case where any Article of this convention gives a consular officer the right to perform any functions, it is for the sending state to determine to what extent its consular officers shall exercize such right.

Not alone is this a blank check provision but the determinations which cover its legality can be kept shrouded in mystery by hding far away in Dublin by what authority and to what extent the consular officers may act. Given the equally broad specific powers found in Part VII of the same Convention with respect to "Transfers of Property" and the duty to "where necessary, arrange for legal assistance" for the person of foreign nationality written into Part V, subsection (c), Arrow may well have considered that he was instructed or engaged to act as an arm of the Irish Government for

the purpose of enforcing the decree of an Irish Court or even transfering property. These powers being recognized by the United States Constitution, Article 6, clause 2, as "the supreme law of the land" to which "the judges in every state shall be bound" Srrow thus cloaks himself in legality and presumes to be acting under color of law.

That Arrow has violated Federal Statute by so doing is seen by U.S.C. Title 42, Section 1983, respecting civil action for deprivation of rights, which states:

> Every person who, under color of any statute, ordinamce, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

By acting to deprive plaintiff of due process by removing from plaintiff his lawful wife, four minor children, and property valued in excess of $20,000, and in so doing citing a "judgement against defendant from an Irish court" Arrow has violated the provisions of Title 42, Section 1983, and is "liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

Additionally the plaintiff having undertaken by paragraph numbered the Eleventh of his Amended Complaint to sue in behalf of his four minor children CHARLES MERRILL, PAUL HARRIS, ANNA SARAH, and

EVA SARAH, and these four minor children who are citixens of the United States having been wholly deprived of their rights under the Constitution and laws and statutes of this country and deprived in addition of their birth-right to live and enjoy this great democracy and their birth-right to have both mother and father through the action taken by Arrow and his co-conspirators on claim that they were enforcing a foreign judgement five separate and co-equal causes of action against the conspirators exist pursuant to Title 42, Section 1983.

D

RACIAL BIAS TOWARDS PLAINTIFF AS A JEW

U.S.C. Title 42, Section 1985 (3) states "in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the obejct of such conspiracy, whereby another is injured in his person or property, or deprived or having and exercizing any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages ...." The first consideration therefore must be to discover precisely as possible what was the "object" of the conspiracy in which defendants herein named were engaged. This does not presume that the conspiracy was initiated by them or in its ultimate objects was what they thought it to be,

but merely requires discovery of its true "object" even if it lies further back and out of their sight. For this purpose it must be determined what was the ultimate object of all the parties engaged and what was the final object of the conspiracy as a whole, detracting from its integrity none of the branches and sub-plots that grew upon it or were improvised for the final successful carrying-out of its ultimate purpose.

Examined in this detailed and all pervasive manner it emerged that the original and ultimate object of the conspiracy for which knowingly or otherwise all parties were enlisted to serve was the conversion of plaintiff's chattels and other private property valued in excess of $20,000 which were looted from his house at 42, Ailesbury Road, Dublin, Ireland. All other manner of activity and allegations would appear to be subservient to that ultimate object, and, in corollary fashion, once that object had been realized all the energies of the conspirators witting or otherwise were exerted for the goal of confirming that conversion and preventing it from being discovered or undone or punished. As interpreted by Mr. Justice Stewart (supra);

> ... that the statute was meant to reach private action does not, however, mean that it was intended to apply to all tortious, conspuratorial interferences with the rights of others ... The constitutional shoals that would lie in the path of interpretaing Section 1985 (3) as a general Federal tort law can be avoided by giving full effect to the congressional purpose - by requiring, as an element of the cause of action, the kind of invidiously discriminatory motivation stressed by the sponsors of the limiting amendment ....

Such requirememt is satisfied by assertion of defendant Allen H. Arrow, an attorney, that he took part in the general conspiracy for the purpose of enforcing the judgement of an Irish court, for this judgement was an openly biased and racially and religiously discriminatory finding. Evidence before the District Court showed that the said judgement was arrived at before any hearing by consultation of Sarah Mount's brother Joseph Long, a common burglar, with Charles J. Haughey, then Minister for Finabce of the Irish Republic, and that to have it brought forth as the product of a judicial proceeding the Minister for Finance changed the judge before whom hearing was scheduled and informed the Hon. George J. Murnaghan who thereafter presided that he was to find against plaintiff on the ground that he was a Jew. Evidence further put before the District Court (EXHIBIT 9 supra) shows that this same Minister of the Irish Government was soon after removed from office and arrested on an unconnected criminal charge.

Caution must be employed at every turn to separate the strands of a matrimonial and religious problem centering on the instability of Sarah Mount and which was essentially private from the conspiracy which later superceded it. That any question of racial or religious bias should have arisen in connection with plaintiff is exceedingly unfortunate and unject for few persons have been more fastidious with respect to all questions of race and religion. Plaintiff truly felt that his registry office marriage to Sarah Long, at Dublin,

Ireland, April 11, 1964, was a blending of souls and thereafter he appeared to lose all identity apart from that of his wife. The certificate of marriage presented before District Court (EXHIBIT 2, supra) shows that the bride was a "spinster" two days older than plaintiff, never previously married, and that the witnesses were two of plaintiff's closest friends in Ireland, the barrister Ulick O'Connor, and the Curator emeritus of the Municipal Gallery of Modern Art, Patrick O'Connor. Like the bride both were Catholic. So completely did plaintiff enter into the spirit of that environment, so immense was the happiness of the marriage with its consequent birth of four children (EXHIBITS 3,4,5 and 6, supra) plaintiff even now feels inherent lack of validity to representation that he is a Jew.

Nonetheless as the son of Dr. Abraham L. Suchow and Sadie Arrow (or Aronowsky in its original form) as recorded on that same certificate of marriage plaintiff was born in New York May 19, 1928, and some thirteen years later and after nearly four years' training in religion and the Hebrew language he was duly enteted by his parents into the Jewish faith in a Bar Mitzvah celebration held at Temple Ahavath Sholom in Brooklyn. Defendant Arrow attended that celebration and himself thirteen days younger than plaintiff when his parallel Bar Mitzvah was celebrated shortly after plaintiff was present there too. The cousins here lined up on opposite sides of litigation are thus both of Jewish faith, and, accepting that their antecedents were of the same faith for an

many generations as are recorded and came from Russia it is likely that despite their blondish hair and blue eyes they are also racially pure Jews whose ancestry stems directly from the people in the Bible. Some common ancestor of defendant Arrow and plaintiff experienced slavery in Egypt, fled with Moses across the Red Sea, suffered the Babylonian captivity, were subjects of Kings Solomon and David, and in turn were conquered by the Macedonian cohorts of Alexander and the Legionaries of Rome. Their blood and their bones mixes with the soil of the Holy Land.

In Ireland plaintiff's close friend Jocelyn C.[illegible]. Proby, himself grandson of the Earls of Carysfort and Donoughmore, cousin to the Earl of Wicklow, and nephew to the Duke of Abercorn, suggested that prior to the sixteenth century his own ancestry was Jewish, and he produced a massively detailed family tree which surely revealed strangely Spanish and Jewish names. Plaintiff had become so much a part of his wife that such revelations had ceased to have relevance. Does it not say in the old testement Book of Ruth: "Wheresoever thou goest I shall go. They people shall be my peoplem thy God my God." This too was plaintiff's direct heritage. Yet it is typical of plaintiff's fastidiousness that he prefered to blur outlines rather than cross streams and for the benefit of his wife he asked Father Brian Wilkinson, a member of the Catholic Counsil on Marriages in the Archbishop's House, Dublin, to draft a petition to the Pope to permit a Church wedding, but in good conscience never attempted nor wished to become

Catholic himself. Each of the children in succession was baptized Catholic with due solemnity and again, as token of good faith to his wife, the two boys were not circumcized.

In retrospect to blur outlines was probably the wisest course in a country where the medieval wars of religion never had ended and profession of faith of any sort remained the most common battle cry. By appearance and strangely British accent he had acquired and which only later softened under his wife's influence to the "correct" Dublin speech of actors Errol Flynn, Richard Aherne, and Ronald Colman, plaintiff seemed to be a part of the Irish upper classes and therefore a hated Protestant. His professional work as a portraitist surely came from that quarter. Eaxamples are that he did at least nine portraits for branches of the Proby family and an equal number for the Synges. When plaintiff was recommended by two members of the political party in power for the position of Director of the National Gallery of Ireland, one of his sponsors, Erskine Childers, thereafter becoming President of Ireland (EXHIBIT 8, supra) it was in recognition not alone of plaintiff's international professional stature but also that he cut across the religious and class lines so much more tightly drawn in Ireland than elsewhere in the world.

The tragedy which befell plaintiff's Irish career nonetheless was of religious cause and came from the quarter least expected. Ordinary personal happiness previously had been so rare in plaintiff's life that his dependence upon his wife in all respects grew overwhelming. She was neither young nor pretty nor had she the ravishing

sparkle associated with the hugely romantic love plaintiff felt. Her qualities would have been unapparent to a lover but to a husband brought the complete happiness of understanding, affection, daily gaiety, a well run home, and the satisfying environment of children. In addition their relations gave a sense of assurance that this heaven on earth would continue forever without change.

In June 1968 Anthony (Tony) Long, younger brother of plaintiff's wife, died on a roof in the suburb of Dun Laoghaire. The peculiarly Calvinistic Counter-Reformation background of the Irish Catholic faith, derived through direct teaching from the heresies of Port Royal rather than Rome, and so different from the practice of a less austere religion by Catholics in France and Italy, now became responsible for devastation. From the remarks of his wife plaintiff learned that "Tony is in heaven" even though in the suddenness of his departure he had failed to receive unction or make other preparation. Such complete assurance of grace compared unfavorably with her own condition married outside the church (plaintiff's petition to the Pope being at that point two years in Rome) and under parallel circumstances she would go to hell. Plaintiff's appeals to Father Brian Wilkinson brought comforting assurances and visits but no action from Rome. Dr. Daniel Rosenberg of Brooklyn who is a relative and visited plaintiff and his wife in Dublin suggested that Sarah Mount appeared to be going through a nervous breakdown. By September 11, 1968 plaintiff wrote to Arrow (EXHIBIT 16, supra):

> Conditions in this house continue to be deplorable. My wife is ill, nauseous, frequently in tears, and unstable both emotionally and mentally. The doctor was treating her for a general nervous collapse complicated by aspects of paranoia, but she now refuses to see him and it is all I can do to cope.

Plaintiff proved unable to cope and by Christmas 1968 his wife had begun the successions of abandonments of himself and her children which have marked the progress of her mental condition. By September 2, 1969, she was in such advanced state that the family doctor, James J. Magill, who had served a psychiatric internship in England, drafted his statement previously quoted (EXHIBIT 19, supra) concerning such clinical aspects of her condition as "blunting of affect", "incongruity of affect" and "aggression" with the conclusion that:

> ... she is gradually drifting into schizophrenia. Her affect dissociation, apathy, and misplaced hostility are in keeping with this diagnosis and the more recent entry of paranoid attitudes would confirm this view.

That a copy of this statement was filed with Arrow as plaintiff's attorney demonstrates conclusively that his representations of contrary nature made concerning the motives and desires of Sarah Mount must be dismissed because he was aware of her incompetence. That she had "reasonable" fear of her husband is not creditable. The more essential point however is that though plaintiff had blurred the outlines of his own racial and religious origins and had ceased to consider that he was anything apart from this adored

wife does not in any way detract from the unedniable fact that none of the above would have occurred, or could have occurred, if in the mind of his wife he were not a Jew. The phenomenon of his wife's mental breakdown and all of its tragic aftermath to which we are witness in this court revolves exclusively about the single point that his wife interpreted him to be a Jew.

To this point there was no conspiracy and the condition of Sarah Mount was her reaction to a circumstance which overwhelmed her. She had her husband's good wishes and surrounded by her children might well have overcome a delicate situation which eventually would have been cured by a church wedding. That this did not come to pass derives exclusively from the element of conspiracy now introduced by Sarah Mount's brother Joseph Long. In her various disappearances from the matrimonial home Sarah Long had run to this older brother who determined to reap advantage. His fanatical hatred of plaintiff always expressed in relevance to his being a Jew initially presents "the kind of invidiously discriminatory motivation stressed by the sponsors of the limiting amendment". Joseph Long surely introduced the element of "intent to deprive of <u>equal</u> protection, or <u>equal</u> privileges and immunities" on the purely racial and religious basis that plaintiff was a Jew. This animus Joseph Long himself expressed most forecfully in connection with his deeds as we shall see, and it is his animus which operated in New York to the detriment of plaintiff's rightful interests.

That plaintiff was a Jew became the central and controlling issue of so-called custody proceedings which took place in Dublin during December 1969. These proceedings are set forth in paragraphs numbered 59 through 67 of plaintiff's affidavit sworn to February 3, 1975 (supra):

> 59. In December 1969 Sarah Mount was plaintiff in so-called proceedings under the Guardisnship of Children Act, 1964. No parallel cause of action exists in this country, since neither divorce nor separation existed between the parties nor was any requested of the court.
>
> 60. The Minister for Finance, Charles J. Haughey, whose name frequently was employed by the plaintiff Sarah Mount and her witnesses during these so-called proceedings, had intervened to change Judges before the case began. He instructed Hon. George J. Murnaghan, who presided, to find in behalf of Sarah Mount on the grounds that plaintiff was a Jew. When Judges were changed, without notice on the morning the case went to Hearing, plaintiff's counsel, the most eminent in Dublin, advised him that it was ominous.
>
> 61. The presiding Judge, Hon. George J. Murnaghan, refused to allow plaintiff to take the oath on a bible, on the grounds that he was a Jew, though no mention of plaintiff's religion had been entered in evidence. All four children were awarded to Sarah Mount. No provision for visition of the father was made, and it was the clear intebtion of the court that plaintiff never again see his four children.

The further paragraphs of the affidavit (supra) present plaintiff's belief that the so-called Dublin proceedings were not valid as contrary to (New York) CPLR 5304 (a) 1,3,4 and 6 and that when in the last personal interview they ever had plaintiff told Arrow of events in Ireland the latter gave it as his opinion that

"Judges are prejudiced like anyone else." The clear basis of this prejudice recognized by Arrow and the basis of Sarah Mount's mental state which led to these so-called proceedings, can be nothing else than that plaintiff was a Jew.Any effort by the defendants in this action to enforce that judgement in this country merely brings to these shores the original discriminatory animus which gave rise to the said judgement in Ireland.

As an incompetent person it is unlikely that it can be considered that Sarah Mount actually was party to those so-called Dublin proceedings. Paragraph 67 of plaintiff's cited affidavit (supra) shows that at the first possible moment she certainly acted to repudiate its judgement by bringing all four children with her to America where she resumed married life with her husband. The matrimonial domicile now became 650 West End Avenue, New York, N.Y. and here Sarah Mount made affidavit sworn to the 9th day of June, 1971 which sheds sharp light on the way those so-called Dublin proceedings had been conducted. Her affidavit is attached herewith as EXHIBIT A and states in relevant sections which, in accordance with her recollection of Irish form, Sarah Mount did not number:

> I, Sarah Long Mount, aged forty-three, born in Dublin, Ireland, and now residing with my husband Charles Merrill Mount at 650 West End Avenue, New York, N.Y. do hereby solemnly swear that though the Guardianship Proceedings were titled Mount vs. Mount my role was only one of convenience by which my brother Joseph Long of 16 Highfield Road acted to despoil my husband of everything he possessed. From the moment my brother induced me to break into 42 Ailesbury Road and 29 Victoria Road to kidnap the children I had abandoned I was never

> consulted on any matter. My brother Joseph Long put the proceedings into the hands of his own solicitor, Rory O'Connor, who treated me with contempt and never took a telephone call unless it was my brother and not myself who rang. Only after the Proceedings concluded did my brother boast to me of how he had employed Charles J. Haughey, a Minister in the Government, to have my husband harrassed by the police. He also boasted that numbers of my husband's witnesses had failed to show up because of harrassment of the police who visited them at home.
>
> ... Apart from the frequent statement "I'm going to destroy that Jew" he told me nothing and I was too much in fear to ask.

Concerning the looting of plaintiff's house her lengthy account concludes with:

> ... To complete the looting they worked all day, assisted in the middle of the day by my sister Mary Long, driving back and forth with property stuffed into and on the roof of the Opal. I was horrified and was told that I tried to do anything about this theft they would all swear to the police that I had taken part with them. My brother Joseph was jubilant: "I really cleaned out the Jew" he kept laughing. "Those kind of people should not come to a decent country."

Sarah Mount's final reference to her brother Joseph Long is this:

> "You brought shame on us all by marrying that Jew" he told me many times. In January 1971 when I discovered that my husband, who still cared for me, had come to Dublin to take me away I went with him immediately.

A heartrending matrimonial problem thus can be seen to have been transformed by Joseph Long into a conspiracy in which his

his out-spoken invidious discriminatory animus against plaintiff as a Jew never was hidden. The judegemnt of the Irish court was gained on the basis of the same invidious discriminatory animus expressed in the hearing itself when plaintiff was forbidden to take oath on the Bible on the ground that he was a Jew. The looting of plaintiff's house again carried out by Joseph Long on an admitted basis of discriminatory animus gave rise to all the tragic aftermath.

By acting to enforce the judgement of the Irish court in this jurisdiction the defendants named in this present cause of action knowingly or otherwise gave effect to the fiercely bigotted animus of Joseph Long who sponsored and sought the judgement and unscrupulously employed his unstable sister to obtain it. But whether or not in reality the parties here named as defendants were acting to enforce judgement of the Irish court by completing conversion of property stolen as a result of Joseph Long's discriminatory animus they were still giving effect to that bigotry in this country. By depriving plaintiff of that property and by removing from this country without due process plaintiff's wife and four minor children the defendants deprived plaintiff of rights and privileges as a citizen of the United States, and "the party so injured or deprived may have an action for the recovery of damages ...." (U.S.C. Title 42, Section 1985 (3)).

RACIAL AND RELIGIOUS BIAS TOWARDS THE MINOR CHILDREN

The attitudes of plaintiff's blood relations towards his wife and their equally important attitudes towards the four minor children of the marriage are not touched on in plaintiff's affidavit sworn to February 3, 1975 (supra) submitted to the District Court. This omission again is one which occurred through the pro se plaintiff's acknowledged ignorance of pleadings pursuant to cited statutes and it was not repaired by reason of the District Court's failure to hold hearing at which such matters might have been elicited from plaintiff. It is therefore proper to repair the failure of the District Court by exposition that the question was not treated in plaintiff's cited affidavit through no oversight on his part, the matter being one which caused plaintiff great anxiety and dismay and an overwhelming ill feeling within the family reflected in correspondence and memoranda. The fault lies with the natural inclination of a pro se plaintiff to refrain from overburdening his submissions by motivations and to limit them to deprivations which took place. This should properly be repaired by exposition of an essential and deep-rooted bias since it is inescapable that the defendants herein acted with knowledge of the animus of plaintiff's blood relations and in expectation of their approbation and support.

For Jewish parents whose experience and background is limited to New York the city of their birth to feel disapproval over the marraige of their only son to an Irish and Catholic spinster need hardly be enlarged upon. The typical xenophobia of the Irish Catholic and morbid dislike of strangers as potentially threatening elements is matched only by the historically parallel reaction of Jews. The world presents to each a constant menace against which he exists in a precautionary posture. Plaintiff's parents Dr. Abraham L. Suchow and Mrs. Sadie A. Suchow are therefore typical and their attitudes only exaggerated by the utter contempt for persons of Irish background and Catholic faith acquired through Dr. Suchow's forty-five years of active medical practice. He sees the Irish through the doors of his consulting room, the men alcoholic and unreliable, the women given to psychosis through religious anxiety. Their only attitude towards Sarah Mount was a desire to be rid of her on racial and religious grounds as an undesireable spouse for their only son.

The background extends into greater depth for the Suchows also had taken steps to destroy plaintiff's first marriage to a Jewish girl with whom he was at school. Their own discriminatory animus towards him as an artist was quickly transfered to her and despite the birth of a daughter in 1950 by 1953 they had induced this first wife to abandon the matrimonial home at 416 East 17 Street, Brooklyn, and take up residence with them. They did so again in 1954 and 1955 and this abandonment of

the matrimonial home in Brooklyn is shown by the Petition for admission to practice before the United States District Court attached hereto as EXHIBIT C sworn to in 1956 by the said Barbara M. Suchow in paragraph numbered 1 of which she states her residence as 85-19 Palo Alto Street, Hollis, Queens County, State of New York, the home of plaintiff's parents. No sooner did newspapers announce May 1, 1956, that plaintiff had been awarded a Guggenheim Fellowship that Barbara M. Suchow repented of her abandonment and determined to take these fumds from her husband by notice of motion dated June 6, 1956, before the Supreme Court of the State of New York. By Order signed by Hon. David Kusnetz, Justice of that court, September 17, 1956, attached hereto as EXHIBIT D, her demand for "alimony be and the same is hereby denied."

By the most liberal of interpretations plaintiff's parents were involved in procuring loss of consortium and after separation of seven years the marriage was dissolved by Mexican Divorce in 1961. Plaintiff's second marriage in 1964 therefore was in no way connected with termination of the first. At the time they met plaintiff's second wife Sarah was manager of a hotel in Co. Wicklow, Ireland, which honorable employment she fulfilled with her typical skill, attention, and vigor. This did not dissuade Dr. Suchow from stating that she was "the hotel whore", hardly an allegation to be thrown at a chaste Irish maiden lady. Plaintiff's eldest son who bears striking resemblance to both plaintiff and his father Dr. Suchow likewise is frequently stated by Dr. Suchow not to be

plaintiff's son. As a memorandum dated November 20, 1973 attached hereto as EXHIBIT E demonstrates Dr. Suchow remains habitually abusive of this boy and refers to him as "that dopey" and a "bastard" within his own hearing. Rages of this sort generally are associated with contact between Dr. Suchow and Barbara M. Suchow. Remarriage of the latter and her change of name to Barbara Gunther has not prevented this party from continuing blatant efforts to secure for herself or for her daughter by plaintiff the bulk of estate to be left by the Suchows. On May 12, 1973, plaintiff wrote direct to Mrs. Barbara Gunther a letter attached hereto as EXHIBIT F concerning these designs and expectations:

> You have shown your hand far too blatantly in the last days and I mnust insist that it stop. There is no doubt that all these dinner invitations, gifts, and roses, are an effort to deprive my four younger children in favor of Judith. This is something no father could permit ...
>
> You have my word that I will see to it that Judith is always treated equally with my other children. With that settled you have no legitimate interest in this family ....

Barbara Gunther nonetheless to exercize her own control by that August had undertaken to provide plaintiff's parents with new Wills and by letter dated August 14, 1973, hereto attached as EXHIBIT G plaintiff was obliged to state that he would contest any such Will. The Wills were drawn as is shown by plaintiff's Memorandum attached hereto as EXHIBIT H and on March 7, 1974,

in telephone conversation with the lawyers drafting the Wills Dr. Suchow explained (as is shown by plaintiff's Memorandum hereto attached as EXHIBIT I) that he was unable to contact his "daughter-in-law" to explain some parts of the Will recently drawn. Sarah Mount who is the only daughter-in-law of Dr. Suchow clearly was not the person refered to and no doubt can exist that he was consulting Barbara Gunther concerning disposition of his estate. Since no mention of this Will or Wills ever has been made to plaintiff who has been consulted in no way nor by any of the parties involved there is a presumption that the terms of the said Wills must be considered to be inimical to the interests of plaintiff or of his children by his wife Sarah Mount.

ARGUMENT

With an unusual liberality towards the professional attorneys who are defendants in this cause of action the District Court granted their admittedly defective motion to dismiss. At the same time the District Court denied a properly framed motion for summary judgement pursuant to Rule 56 (a) brought by the pro se plaintiff on purely technical grounds related to its own interpretation of the pleadings in the light of specific statutes to which the pro se plaintiff had made no reference and could not be expected to have familiarity. The District Court appears to have acted intuitively for it made no effort to explore this area and no hearing was held.

To overlook the deficiencies of professional attorneys while examining with minute care the relationship of pro se pleadings with statutes that were not pleaded would appear to be the reverse of the proceedure universally urged on the courts when examining complaints and pleadings of pro se plaintiffs. Moreover the finding of the District Court that plaintiff "does not demonstrate a 'racial, or ... otherwise class-based, invidiously discriminatory animus behind the conspirators' action against him" seems an unduly restrictive view of pleadings which set forth that he is an artist and a Jew and was refused permission to take oath on the Bible by a foreign court which thereafter presumed to award

custody of his children. In itself this pleading constitutes sufficient indication of a racial and religious animus to have demanded inquiry on the part of the District Court whether that animus did not reach deeper into the motivations of the parties who undertook the conspiracy complained of. Enquiry had it been carried out by hearing would have established that three separate varieties of invidiously discriminatory animus were at work against the plaintiff himself and also against his wife who is Catholic and the four minor children of the marriage who likewise are Catholic and that cause of action under U.S.C. Title 42, Section 1985 (3) existed.

The case properly came under Rule 56 (c) for disposition by summary judgement because "the purpose of this rule is to expeditiously determine cases without necessity for formal trial where there is no substantial issue of fact, and proceedure is in the nature of an enquiry to determine whether genuine issues of fact exist". (1966) Chambers v U.S., (CA 8), 357 F2d 224. How then did the District Court dismiss plaintiff's complaint without hearing when no contrary evidence and no controlling issue of fact or issue of fact of any nature was raised by defendants whose submissions to the court were limited to Answer and a motion District Court admits to have been defective and to which plaintiff made opposition by affidavit on that ground. Because defendants' motion to dismiss was not properly before the District Court

in footnote 1 to the decision the District Court held "had defendant made no motion at all, the Court would nonetheless be authorized to dismiss the complaint by virtue of plaintiff's pending motion for summary judgement". But doubt must exist whether this authority actually existed in the absence of any factual submissions whatsoever on the part of the defendants and the Court's own failure to enquire by hearing into the existence of discriminatory animus against a pro se plaintiff. Surely this is a case where the defendants in no sense met their burden of factual submission: "Summary Judgement can be avoided only if facts are disclosed." Lundeen v Cordner, (CA 8), 356 F2d 169. "A party confronted with a motion for summary judgement may not simply stand on his pleadings; he is required to come forward with more substantial material in opposition to the motion." (1966) Newport Federal Savings & Loan Assn. v U.S. (DC-Ark), 259 F. Supp 82. Indeed defendants' very method of avoiding exposition of factual issues by making statements in a brief may also have been defective proceedure: "Statements of counsel in their briefs or argument while enlightening to the court are not sufficient for purposes of granting a motion to dismiss or summary judgement." Trinsey v Pagliaro, (DC-Pa), 229 F Supp 647. Moreover the technical question of law discussed by the District Court in its lengthy decision in itself cannot constitute a bar to judgement in favor of plaintiff since the court had at hand the means to explore the

facts and ought not to have disposed of the matter by intuitive judgement without hearing: "Existence of an important, difficult, or complicated question of law is not a bar to summary judgement where it is clear there is no genuine issue of material fact." (1966) Lewis v Coleman. (DC-W Va), 257 F Supp 38. By every applicable standard therefore the District Court should have held hearing and been ready to grant plaintiff's motion for summary judgement. A lengthy digression in its decision concerning the efficacy of State Court proceedings would appear to suggest that some other mechanism was at work and that the District Court early determined that this cause of action should be sent to that other tribunal and thereafter failed to do its full duty with respect to discovering whether aby case did not genuinely exist for its own disposition under Federal Statutes. Failure to have hearing at which necessary questions might have been put to pro se plaintiff is the significant omission which caused District Court to act in error.

Hearing was obligatory upon the District Court before it gave judgement. The plaintiff having stated in paragraph numbered the twenty-sixth of his Amended Complaint "that because of the defendants and their conspiracies set forth above three of plaintiff's minor children, Paul Harris, Anna Sarah, and Eva Sarah, all this time and up to and including this moment are obliged to live in crowded and unsanitary conditions, <u>among illiterate and unschooled persons who hate their father for his Jewish religion</u> ..." (italics supplied) and this question of plaintiff's Jewish religion having been

expanded in the affidavit sworn to February 3, 1975 in support of plaintiff's motion for summary judgement by paragraphs numbered 59 through 63 wherein it was shown that in so-called proceedings for custody of the children the judge had been changed on the morning hearing commenced and the judge who presided was instructed by a Member of the Irish Government to find against plaintiff "on the ground that he was a Jew", and it further being set forth that this presiding judge "refused to allow plaintiff to take oath on a bible, on the grounds that he was a Jew, though no mention of plaintiff's religion had been entered in evidence" and plaintiff further having stated that he believed the foreign proceeding to be invalid by (New York) CPLR 5304 (a) by amongst other reasons because it was obtained "under a system which does not provide impartial tribunals or proceedings compatible with the requirements of due process of law" the element of an invidious discriminatory animus against him had been raised. Henceforth it was the duty of the District Court to elicit from plaintiff at hearing whether these issues of discriminatory animus were not sufficiently controlling to the conspiracy to constitute a cause of action under statutes of which he was naturally ignorant. Surely at hearing the affidavit sworn to by Sarah Mount herself and hereto ennexed as EXHIBIT A would have been discovered with its extraordinary and enlightening opening passages which throw

such fulsome illumination on the methods by which that proceeding had been conducted:

> I have recently been shown by my husband a series of letters that passed between him and my solicitor and between the opposing solicitors, some of which pretend to give answers to questions that came from me. The answers were not given by me, nor did I know that the questions had been put. If anyone dictated those answers it was my brother who was fully conducting the case without my knowledge. Apart from the frequent statement "I'm going to destroy that Jew" he told me nothing and I was too much in fear to ask.

That this essential evidence was not presented by the pro se plaintiff before the District Court demonstrates that he failed to grasp the significance of the statutes of which he has declared himself to have been ignorant, but also that the District Court erred by failing in its obligation to hold hearing at which the existence of such evidence should have been explored. No right of the defendants would have been jeopardized by a hearing for which the fact situation presented by plaintiff urgently called.

Misapprehensions concerning the nature of the complaint or the pleadings should have been dispelled by hearing in which the judge would have elicited from plaintiff the outlines of the three varieties of discriminatory animus inseparable from this cause of action. No hearing was held and the District Court instead and by error proceeded in haste to grant the defective motion to

dismiss brought by defendant attorneys. Error of the court thus compounded its error of judgement concerning the nature of the complaint and pleadings. The District Court added to this the additional error of granting the defective motion of defendant attorneys against the properly framed motion of plaintiff. On the face of it the properly framed motion of the pro se plaintiff had priority over the evasions of a defective motion brought by defendant professional attorneys. To rule in favor of that defective motion without hearing and its necessary explorations for grounds under the statutes and without bearing in mind the multiple admonitions towards liberality in reading the complaint and pleadings of pro se plaintiff adds up to palpable error on the part of the District Court.

Early in his life plaintiff felt the peculiar social animus ditected in this country against all those who follow his profession of artist. Historically this unfortunate American social phenomenon has affected the most able and talented of native sons who pursued their profession at home rather than enjoying the more generous attitudes accorded their expatriate brethren. Plaintiff himself likewise found a more ample career as an expatriate and for a number of years in Europe occupied a position of dignity. In Ireland where he married for a second time a second variety of discriminatory animus noted unfortunately arose on the part of an older brother of the plaintiff's Catholic wife who took advantage of the wife's instability to despoil plaintiff of his

goods and chattels. This followed a period when plaintiff's wife had been declared by the family physician to be "slowly drifting into schizophrenia". By methods inconsistent with the honor of a court of kaw and which are verified by plaintiff's wife in her own affidavit now before this court this most unscrupulous brother employed plaintiff's wife as a party of record to procure from an Irish court a specie of judgement not recognized in this country even were it not obtained by fraud. Thereafter he forced his way into and burgled the house of plaintiff in Dublin from which he removed and converted to his own use goods and chattels vakued in excess of $20,000. A regrettable domestic situation to which the sympathy of all must be directed was thus transformed by this brother of plaintiff's wife into a conspiracy with which the court is herein concerned.

The conspiracy is essentially one to profit from plaintiff's chattels and goods burgled from his house in Dublin and at all points it must be dissociated from the domestic relation of plaintiff with his wife. This present cause of action presents no domestic question to the court and should not be treated as though it did. Rather it places squarely before the court elaborate conspiracy on the part of numerous persons to profit fraudulently and by theft from the awkwardnesses of a domestic situation which itself is not at issue. One cannot confuse the Battle of Watterloo with the Duchess of Richmond's Ball which took place in Brussells the previous night even though Wellington

and his officers were present at both. Likewise the mere fact that the most unscrupulous brother of plaintiff's wife who is a common burglar employed a domestic problem as cover for his conspiracy in no way permits it to be thought that the domestic problem is at issue. It is not. Both plaintiff and his wife dissociated themselves from the conspiracy by bringing their four young children with them to New York where they continued to live as man and wife and to share the custody of the children as is normal in a family. As matrimonial domicile they shared an apartment in West End Avenue, New York City, upon which the jurisdiction of this court is established quite apart from the citizenship of the husband and the four minor children all of whom are Americans by birth.

In New York however plaintiff and his family encountered once more the invidious discriminatory animus against him as an artist, especially on the part of plaintiff's own Jewish relatives who considered that the losses he had sustained by reason of the conspiracy and his consequent poverty were a mark of professional failure. In short plaintiff no longer was an affluent memner of the family or of society in general and this was believed by his Jewish family to demonstrate conclusively that he was an inferior person not worthy of normal consideration. This first mentioned variety of animus which was surely of a social or class-based variety thus was added to the second religious animus of more active variety which originated with the brother of plaintiff's

wife. Further active invidious discriminatory animus now arose also directed at plaintiff's Catholic children by his Jewish parents, and especially at two boys who were not circumcized. As plaintiff has undertaken to act in behalf of his four minor children this extra element of discrimination on a straight religious basis is properly a part of the considerations of this court.

In New York with his wife and four minor children plaintiff found himself under pressure to earn a living. His natural efforts in this direction included the necessity to reclaim his professional records and equipment and research materials burgled by the brother of his wife. Plaintiff unknowingly and only because he was obliged to support those dependent upon him stepped into the vortex of these several specified varieties of animus. It must be stressed that plaintiff was responding not alone to his own natural impulse to provide for his loved ones but also the work ethic of his class which was a part of his American upbringing. In every profession it is acknowledged that the records and files of prior matters and proceedings are the invaluable commodity, yet plaintiff had been wholly deprived of his. And at this desperate moment the defendants herein named conspired for the benefit of Joseph Long to hide plaintiff's wife and four minor children in their law offices and then ~~smuggle~~ in a New York apartment for the purpose of smuggling them out of the country without due process and without the knowledge and consent of plaintiff. For whatever motive plaintiff's

wife desired to depart New York at this juncture her action cannot be associated from her previous mental instability. Whether her action was that of a dupe or a pawn or merely expressive of the fact she had been made to feel unwanted by plaintiff's relatives (she has not been heard from on this point and the stories provided by the defendants are naturally self-serving) her motives and those of the conspirators must be dissociated completely.

Sarah Mount is known to have been unstable and subject to sudden hostilities and related impulses. This has been stated by her doctor in Dublin who had ample opportunity to observe her at close quarters over a period in excess of three years while he delivered several of her children. For whatever reason she left New York, and it cannot be discounted that she might have been told to do so by plaintiff's relatives, Sarah Mount's impulses are essentially a part of her own imperfect understanding of a domestic strain which she never fully comprehended. If it is ever established that Sarah Mount contributed to the cause of action herein before this court then she must be forgiven as one who failed to understand what she did. This same forgiveness however can in no sense be extended to the persons who unscrupulously, unethically, feloniously and tortiously made themselves responsible for smuggling her and the children of her marriage to plaintiff out of this country. Sarah Mount had no understanding of the law. The conspirators are professional lawyers. Sarah Mount's doctor has shown that she acted always by sudden unexplained impulse. The conspirators acted by calculation. And whereas in her own impulsive view of events

Sarah Mount was incapable of ascertaining their ultimate effect the conspirators who were aware of plaintiff's efforts to reclaim his goods and chattels and professional records for legitimate and necessary purposes cannot be absolved of knowing that by assisting Sarah Mount to disappear they were implementing a final step in the subsisting conspiracy to convert plaintiff's goods and chattels. Without funds, unable to enter an Irish Court or to meet the necessity for security for costs, in the absence of his wife plaintiff's efforts to re-possesss the stolen property must inevitably end.

In explanation of their own grossly unethical and unlawful conduct two of the conspirators are silent and only defendant Arrow answers. In earlier proceedings before the District Court he had hypothecated that he believed plaintiff's wife had "reasonable" cause to be in fear of her husband but he supports this by no evidence. Sarah Mount had never been seen nor treated by any doctor for any ill-treatment sustained from her husband and had no mark upon her ecept where in 1968 she had attempted to cut her wrists. In view of the long history of complete devotion to his wife demonstrated by plaintiff attorney Arrow's stock hypothesis of reasonable fear is hardly more than expression of the general animus against any person who makes the creation of art his profession, it being widespread and unfounded belief that such persons must be unstable. Before another court attorney Arrow also hypothecates that he was acting "under color of law" by

enforcing the judgement of the Irish Court and though this must be taken from its source the claim to have acted under color of law and the existence of a treaty by which such action might possibly have been taken shows existence of a cause of action under U.S.C. Title 42, Section 1983.

Disappearance from this jurisdiction of Sarah Mount ended plaintiff's effort in this country to re-possess his stolen goods and chattels. For this reason it must be held that the conversion begun when plaintiff's house was broken into in Ireland was completed in this jurisdiction when plaintiff was deprived of his last possible means for procuring the return of the stolen chattels and that the defendants herein named were the final instruments in that conspiracy for purposes of conversion. Further deprivations to which plaintiff was subjected, his betrayal by defendants while searching for his loved ones in England and Ireland and subsequent arrest, imprisonment, and deportation from Ireland, which had the effect of closing the courts of Ireland to civil action on his part, while they are loathsome acts do not add dimension to the original conspiracy which for all intents and purposes found its culmination in New York when the defendants destroyed plaintiff's marriage and deprived him of his four minor children in respomse to the vortex of conflicting discriminatory animuses.

In each instance the animus itself was expressed in most

uncompromising terms. Joseph Long made frank statement to his sister "I'm going to destroy that Jew" and after burglarizing plaintiff's house he was jubilant: "I really cleaned out the Jew. Those kind of people should not come to a decent country." His summation to plaintiff's wife was "You brought shame on us all by marrying that Jew" and this must be seen in a context where his own activities as a common burglar with his brothers is assumed not to have brought shame on the family. The weight accorded the factors of being a burglar and a Jew should be considered by this court. While claiming that he acted "under color of law" to enforce the judgement of the Irish court which Joseph Long had procured by means which do not withstand examination defendant Arrow gave eloquent expression to his own separate animus and discrimination against plaintiff by adopting the standard allegation against all parties devoted to creative work in the arts that his "mind is no longer functioning rationally" and describing him as "a middle-aged former writer and artist, [who] is presently, and has been for some time, without steady emplcyment ...." Within plaintiff's closest family and on the part of his own parents discriminatory animus against him on that same social basis has been joined by even more invidious discriminatory activity against the children for reason of their origin from a mother who is Irish and Catholic. Plaintiff's father Dr. Abraham L. Suchow thus abuses the only rescued child to his face by calling him "that dopey", a "bastard", and has recently signed a new Will which it is circumstantially

believed may disinherit the four unfortunate minor children of plaintiff in favor of his daughter by his first wife, a Jewish attorney who recommended the lawyer to write said Will. The scope and variety of discriminatory animus which existed not only on the part of the persons who carried out the actual acts of which complaint is made, but also on the part of Joseph Long whose outspoken religious bigotry lies at the bottom of the essential conspiracy, makes cause of action pursuant to U.S.C. 42, Section 1985 (3), with the strengthening that defendants' claim that they acted to enforce the judgement of the Irish court and therefore "under color of law" because Treaties with foreign nations are a part of the United States Constitution makes additional cause of action under U.S.C. 42, Section 1983.

CONCLUSION

Plaintiff has stated a claim upon which relief can be granted. His motion for summary judgement pursuant to RRCP Rule 56 (a) should be granted and judgement entered in his favor.

RESPECTFULLY SUBMITTED

Charles Merrill Mount
Plaintiff pro se
135 Beach 145 Street
Neponsit, New York, 11694
(212) 474-1188

AFFADAVIT

I, Sarah Long Mount, aged forty-three, born in Dublin, Ireland, and now residing with my husband Charles Merrill Mount at 650 West End Avenue, New York, N.Y., do hereby solemnly swear that though the Guardianship Proceedings were titled Mount vs. Mount my role was only one of convenience by which my brother Joseph Long of 16 Highfield Road acted to despoil my husband of everything he possessed. From the moment my brother induced me to break into 42 Ailesbury Road and 29 Victoria Road to kidnap the children I had abandoned I was never consulted on any matter. My brother Joseph Long put the Proceedings into the hands of his own solicitor, Rory O'Connor, who treated me with contempt and never took a telephone call unless it was my brother and not myself who rang. Only after the Proceedings concluded did my brother boast to me of how he had employed Charles J. Haughey, a Minister in the Government, to have my husband harrassed by the police. He also boasted that numbers of my husband's witnesses had failed to show up because of the harrassment of the police who visited them at home.

Under threats and abuse and in physical fear I was forced by my brother to make an utterly false complaint to the police that Dr. James J. Magill, who had delivered two of my children, had written false certificates of vaccination for the children and myself. By this time I was too browbeaten and too much in fear of physical attack by my brother who had raped me in 1967 to refuse anything he

EXHIBIT A

ordered me to do. From the moment he gave the case to Rory O'Connor he told me that if I ever saw my husband again, spoke to him or went back to him, he would kill him. My unbending attitude towards my husband during the period of the trial and afterward was an effort to protect him from this vengeance which I knew grew out of my brother's jealousy over me. In the weeks preceding the actual Hearings at the High Court I was asked by the Junior Counsel, Mr. Bauer, to memorize answers he wrote out to questions he expected I would be asked. He drilled me on these answers several times because my mental state made learning difficult. During this period I knew nothing more of the Proceedings. I have recently been shown by my husband a series of letters that passed between him and my solicitor and between the opposing solicitors, some of which pretend to give answers to questions that came from me. The answers were not given by me, nor did I know that the questions had been put. If anyone dictated those answers it was my brother who was fully conducting the case without my knowledge. Apart from the frequent statement "I'm going to destroy that Jew" he told me nothing and I was too much in fear to ask.

Not before the Saturday morning after the Hearings were concluded, December 10, 1969, did my brother boast openly that he had been unsatisfied with the Justice to whom the Hearing had been assigned by the President of the High Court. He boasted with pleasure that he had telephoned Mr. Charles J. Haughey at home, and Mr. Haughey had promised him the case would be put into the hands of a favorable Justice. On the day it began we discovered that it had in fact been

switched to Mr. Justice Murnaghan. My brother also told me something I otherwise did not know, that that same afternoon he had himself gone with a dozen pots of chrysanthemums to Mr. Haughey's home as an offering of thanks.

The weekend following conclusion of the Hearings we discovered my husband had left the country with our eldest son. About three o'clock on that Saturday afternoon my brother Joseph Long himself telephoned the nurse who had been working for my husband. In doing so he gave his name as William McGuire and said he was my husband's solicitor with important news. By this untruth he secured the confidence of the nurse who told him my husband had left Ireland the previous day by way of Shannon. I was allowed to play no part in the preparation of the petition presented to the court on Monday, December 12, 1969. It was drafted by my brother together with the lawyers, and when I arrived at the Fourcourts I was told to sign without being given an opportunity to read it. I complained of this to Mr. O'Connor who brushed me aside with, "I'm not getting paid for this and you're taking up my valuable time." Only now that I am in America do I see from my husband's copy that this petition contains the statement "I have been informed by my brother Joseph Long as a result of enquiries made by him through the Department of Justice he has ascertained that my husband left Shannon Airport for New York on Friday evening." This information in fact was secured on the telephone

from the nurse by pretending to be William McGuire.

My brother left me at the Fourcourts and some hours later when I retuned to 56 Highfield Road, my parents' home, I found that house littered with furniture, clothing, statues, paintings, and other property which he was in process of looting from my husband's house at 42 Ailesbury Road. Together with my other brothers Patrick, Gabriel, and Timothy, whom he had picked up after leaving the Fourcourts, he had gone immediately to smash a conservatory window behind the principle hall of the house. His looting was complete. He left nothing, carrying off in his white Opal van license number SLD782 not only the washing machine, chandeliers, furniture and carpets, but even the kitchen gas stove which my brother Timothy, a plumber, disconnected. I found that the same disorder of looted property existed at Joseph's own house, 16 Highfield Road, where my husband's steel file cabinet lay broken open, and even his new electric typewriter, and dictating machine, were lying in the hall. My brother Timothy was wearing the gray double-breasted coat to my husband's best suit and Joseph was using the cuff-links with a watch that had been given my husband in America by his father Dr. Suchow. To complete the looting they worked all day, assisted in the middle of the day by my sister Mary Long, driving back and forth with property stuffed into and on the roof of the Opal. I was horrified and was told that if I tried to do anything about this theft they would all swear to the police that I had taken part with them. My brother Joseph was jubilant: "I really cleaned out the Jew" he kept laughing. "Those kind of people should not come to a decent country."

In the thirteen months that followed the looting of Ailesbury Road I was constantly in fear, not only that my brother would rape me again were there an opportunity, but for my life itself. A man who had done the things he had done was capable of anything, and his attitude towards me all those months was one of menace and contempt. "You brought shame on us all by marrying that Jew" he told me many times. In January 1971 when I discovered that my husband, who still cared for me, had come to Dublin secretly to take me away I went with him immediately.

STATE OF NEW YORK
COUNTY OF NEW YORK
SWORN TO BEFORE ME THIS
9 DAY OF June 1971
[signature]
MILTON PUSHKIN
Commissioner ... New York City
Bronx Co... 3-374
Commiss... ,1954

SARAH MOUNT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

- X

ALLEN H. ARROW, :

Plaintiff, :

-against- : AFFIDAVIT

CHARLES MERRILL MOUNT, : Index No.

Defendant. :

- X

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss:

ALLEN H. ARROW, being duly sworn, deposes and says:

1. I am the plaintiff herein, an attorney duly licensed to practice before the courts of New York and a member of the law firm Orenstein Arrow Silverman & Parcher, P.C. I am fully familiar with the facts alleged herein, and submit this affidavit in support of my application for a preliminary injunction and temporary restraining order pursuant to CPLR §§6001 and 6301 et seq. No other provisional remedy has been secured or sought in this action against the defendant herein, and no prior application for injunctive relief has been made.

EXHIBIT B

2. This action arises out of a sorry, sordid, and sad set of family problems encountered by the defendant, Charles Merrill Mount, who is also a cousin and former occasional client of mine.

3. The underlying cause of this action is the abandonment of the defendant Mount by his wife, Sarah Long Mount, who took with her to Ireland their four minor children, on or about June 10, 1971. For some reason, inexplicable to plaintiff, defendant unfoundedly blamed and continues to blame plaintiff for this abandonment as well as for the subsequent related woes (too numerous to catalogue herein) which have befallen plaintiff's unfortunate kinsman. Defendant alleges that his estranged wife, Sarah Long Mount, or a relative of hers, caused the contents of a house in Dublin, Ireland, allegedly belonging to defendant, to be removed to her own residence. I have no knowledge of this. Before these events, it appears that defendant's wife secured some type of judgment against defendant from an Irish court which, upon information and belief, awarded her custody of her children (who were born in Ireland) as well as the matrimonial domicile (located in Ireland), and enjoined defendant from harassing her, for violation of which order defendant was

2 joint tort-feasor

2.

imprisoned for contempt of court and deported to the United States. In his mind, defendant has conjured up a massive conspiracy against him of which I am allegedly a part.

4. After failing in his attempts at obtaining a reconciliation with his estranged wife, defendant threatened to institute a legal action against those alleged conspirators (myself included) whom he blamed for his misfortunes unless his wife and children and the contents of his home in Dublin, Ireland, were restored to him forthwith.

5. In total, reckless and wanton disregard of the realities of the situation, and notwithstanding the inefficacy of myself to grant him the relief sought, the defendant proceeded to make good his threat, by instituting an action in the United States District Court for the Southern District of New York, 75 Civ. 173 (hereinafter referred to as the "Federal action," see Exhibit 16 to the Complaint), against a former associate of this law firm, a stenographic secretary formerly employed by this firm, and myself, seeking Five Million Dollars ($5,000,000.00) in damages, the arrest and disbarment of myself and the former associate, and the denaturalization and deportation of the former secretary. In the complaint filed in the Federal action, a rambling document too discursive to analyze count by count, Mr. Mount accused me of having been

part of a criminal conspiracy to spirit away (i.e. kidnap) his wife and children, to burglarize his home in Dublin, Ireland, of personal property valued at $20,000 (i.e. grand larceny), to deprive him of his civil rights, and to defraud him.* In addition, Mr. Mount accused me of moral turpitude, perjury and unfitness to engage in my profession as an attorney of law, and to serve as a member of this law firm.

6. Recognizing the groundless nature of his Federal action, Mr. Mount admitted under oath that "his purpose in bringing [that] litigation . . . [was] to force a settlement" of his alleged grievances against me, (see Exhibit 17 to the Complaint herein), viz. the return of his wife, children and property, all of which is obviously beyond my control to satisfy.

7. I have made a motion to dismiss the Federal action for lack of subject matter jurisdiction, which motion is presently sub judice. However, Mr. Mount, while prosecuting his Federal "criminal" action pro se, refuses to abide by the rules which govern the conduct of litigants.

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* The acts alleged to have been commited by me in the Federal action are identical to those alleged by Mr. Mount in no less than two other actions commenced by Mr. Mount in the same Court, 74 Civ. 321 and 74 Civ. 1244 (see Exhibits 18 and 19 to the Complaint), to have been committed by one George Long; and also of a habeas corpus proceeding commenced by Mr. Mount against the Irish Consulate General in this Court (see Exhibit 12 to the Complaint); and which Mr. Mount has alleged are the subject of nine (9) proceedings brought by him in Federal and State courts (see Exhibit 10 to the Complaint).

8. Not willing to let the wheels of justice turn in their own orderly track, Mr. Mount has engaged in a course of conduct best described as "harassment" as that term is used in the vernacular and within the meaning of §240.25 of the New York Penal Law.*

9. Defendant has not confined his activities against me to the courtroom arena. If his activities were so limited, I would be content to let the law take its course in the Federal action. However, Mr. Mount has threatened to send (and, in certain instances, has already sent) letters to " my colleagues, clients and associates. . . outlining his grievances." See Exhibit 9 to the Complaint herein. He has threatened to distribute a thousand copies of a false, defamatory statement, a copy of which is annexed to the complaint as Exhibit 9A, to "newspapers, the Law Journal, your colleagues, clients, and associates, on Friday, March 21, 1975"unless I comply with his preposterous demands. To show that he was not bluffing, Mr. Mount enclosed a statement purportedly relating to yet another litigation in which he is involved, of which he allegedly distributed over 300 copies.

* Although I believe that I have adequate grounds for swearing out a criminal complaint against Mr. Mount for harassment, it is not my desire to see my cousin, who is not a well person, acquire a criminal record in our country (although he already has one overseas), and be incarcerated along with common criminals, notwithstanding his professed desire to see me "taken into custody and held in a Federal House of Detention . . . ." See Exhibit 3 to the Complaint herein.

These letters and the allegations contained therein are false, unwarranted and unjustified, and are intended solely to damage the personal and professional reputation of the deponent and my law firm to harass, annoy, alarm and vex me, and serve no legitimate purpose.

10. On or about February 26, 1975, defendant accused me and a former associate of arranging for thieves to steal defendant's property in Ireland (see Exhibit 6 to the Complaint herein), an allegation which is similarly false, unwarranted and unjustified, and intended solely to damage my personal and professional reputation and that of my law firm, and serves no legitimate purpose.

11. Mr. Mount has already communicated with Harold Orenstein, Esq., and L. Peter Parcher, Esq., members of my firm, about defendant's unfounded allegations against me, and has threatened to have the firm "ordered disbanded, and all members and associates shown to have been knowingly involved . . . disbarred," even though the firm was not named as a party in Mr. Mount's Federal action nor even alleged to have been involved in the alleged "conspiracy." See Exhibit 7 to the Complaint. Notwithstanding, Mr. Mount has accused the law firm of having "defrauded a client of valuable property and stolen his four minor children without due process of law. See Exhibit 9 to the Complaint.

12. On or about March 8, 1975 defendant sent still another letter to Peter A. Herbert, one of the members of my firm, accusing this firm of acting "like gangsters," defrauding its clients, stealing their children, and ominously warning that I "would" be well advised to close [my] doors and run." See Exhibit 20 to the Complaint herein.

13. The present state of affairs has progressed to the point where Mr. Mount's actions can no longer be tolerated. He has shown himself to be in earnest about his threats, and scarcely a day goes by when at least one of my colleagues does not receive a letter from him spreading venom or threats.

14. Unless defendant is permanently enjoined from pursuing and continuing such a course of conduct, which has annoyed, alarmed and vexed me, there is a clear and present danger that he will further and widen his dissemination of material defamatory to my personal and professional reputation, and cause me to suffer irreparable injury.

15. There is ample precedent for the granting of the relief sought. See., e.g., Federation of Jewish Philanthropies v. Association of Jewish Anti-Poverty Workers, reported in the New York Law Journal on March 14, 1975, wherein Mr. Justice Harry Frank issued an order to show cause with a temporary

restraining order, and Mr. Justice Nathaniel T. Helman granted plaintiffs a preliminary injunction restraining the defendants from engaging in demonstrations, sit-ins, picketing and other activities. The language of Mr. Justice Helman's opinion is very apt to the situation at hand: "Ample has been shown to establish that defendants have transcended their right of free speech and moral persuation. . . and that their activities have been deliberately disruptive and deliberately harmful, with resultant irreparable damage to plaintiffs." In the case at bar, as in the Federation of Jewish Philanthropies case, the relief sought is not overbroad: Mr. Mount, under the terms of the temporary restraining order and preliminary injunction sought is free to continue to prosecute his existing action against plaintiff, and/or to report any alleged violations of law by plaintiff to the appropriate authorities duly charged with conducting such investigations and/or prosecuting the same. What he would be restrained from doing is wantonly disseminating his unfounded allegations to my family, friends, business associates and clients, in a manner intended to cause irreparable harm to me.

16. While it grieves me to say this about a blood relat particularly one to whom I had tried to be of help, it is obvious from a reading of Mr. Mount's pleadings and affidavits

in the Federal action, and from his letters, that his mind is no longer functioning rationally. However, by the letters which defendant has sent, continues to send, and threatens to send to persons not privy or party to this or the Federal action, the defendant is obviously attempting to enveigle my colleagues, clients and associates to abandon me, just as his wife and children abandoned him. Should he proceed unhindered in this scheme and succeed, I would suffer irreparable damage for which I have no adequate remedy at law.*

WHEREFORE, it is respectfully prayed that defendant be required to show cause why a preliminary injunction should not be entered enjoining defendant, Charles Merrill Mount, from communicating his alleged grievances concerning plaintiff, Allen H. Arrow, and/or the law firm Orenstein Arrow Silverman & Parcher, P.C., to colleagues, clients, and/or associates of said plaintiff or law firm to any person not a party to the lawsuit captioned Mount v. Arrow, 75 Civ. 173, presently pending

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* This is particularly true in view of the fact that, upon information and belief, defendant, a middle-aged former writer and artist, is presently, and has been for some time, without steady employment and has been living off the largesse of his parents.

in the United States District Court for the Southern District of New York, or who is not lawfully vested with the responsibility to investigate and/or prosecute said alleged grievances in an official capacity; and from persisting in and continuing a course of conduct serving no legitimate purpose, intended to harass, annoy, alarm and vex plaintiff, and for an order temporarily restraining defendant from such conduct, and for such other and further relief as to this Court may seem just and proper and equitable.

No prior application has been made for the relief sought herein.

Allen H. Arrow

ALLEN H. ARROW

Sworn to before me this
17th day of March, 1975.

Howard D. Pennell

Notary Public

DONALD G. LEVENTHAL
Notary Public, State of New York
Qualified
Certificate
Commission

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Application of BARBARA M. SUCHOW for Admission to the Bar of the United States District Court for the Southern District of New York	PETITION

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK:

Your petitioner, Barbara M. Suchow, respectfully shows:

1. I reside at 85-19 Palo Alto Street, Hollis, Queens County, State of New York.

2. I am a member in good standing of the Bar of the State of New York, having been admitted to practice by the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, in April of 1955.

3. I was graduated from the School of Law of Columbia University in June of 1954, and hold the degree of Bachelor of Laws from that institution.

4. Since August, 1954 I have been employed as Law Clerk to the Honorable Lawrence E. Walsh, a Judge of this Court.

5. My business address: United States Court House, Foley Square, New York City, New York.

6. I have never been cited for, or adjudged in, contempt of court, nor have I ever been disciplined or censured by any court.

7. I have read and am familiar with: (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and

practice in, the United States District Court; (b) the Rules of Civil Procedure for the District Court; and (c) the Rules of Criminal Procedure for the District Courts.

8. I have read the Cannons of Ethics of the American Bar Association, and will faithfully adhere to them.

WHEREFORE, your petitioner respectfully requests that she be admitted to practice in this Court.

Dated: New York, N.Y.
, 1956.

BARBARA M. SUCHOW

STATE OF NEW YORK)
COUNTY OF NEW YORK : SS.:
SOUTHERN DISTRICT OF NEW YORK)

BARBARA M. SUCHOW, being duly sworn, deposes and says: I am the Petitioner in this matter; I have read the petition and know its contents, and know that all that is contained in it is true.

Sworn to before me this

day of , 1956.

BARBARA M. SUCHOW

At a Special Term Part I of the Supreme Court of the State of New York, held in and for the County of Queens, at the Courthouse 88-11 Sutphin Boulevard, Jamaica, Borough of Queens, City and State of New York, on the 17th day of September, 1956.

P R E S E N T :

HON. DAVID KUSNETZ,

Justice.

- X

BARBARA SUCHOW, :

Plaintiff :

-against- :

S. MERRILL SUCHOW, :

Defendant :

- X

On reading and filing the Notice of Motion dated June 6, 1956, together with the affidavit of BARBARA SUCHOW, sworn to the 6th day of June, 1956, and theaffidavit of ASNA ARONOWSKY, sworn to the 28th day of May, 1956, and the affidavit of JERALD ORDOVER, sworn to the 6th day of June, 1956, and the copy of the verified complaint thereto annexed and the affidavit of BARBARA SUCHOW, sworn to the 20th day of July, 1956, all in support of said motion, and the affidavit of JAMES M. HARTMAN and S. MERRILL SUCHOW, both sworn to July 19, 1956, submitted in opposition thereto, and said motion having originally been made returnable on June 21, 1956, and having thereafter been adjourned to July 23, 1956, and said motion having come on to be heard on the 24th day of July, 1956, and due deliberation having been had,

and upon filing the decision of this Court, it is

ON MOTION of GERALD CRDOVER, attorney for plaintiff,

ORDERED that the plaintiff's application

for alimony be and the same is hereby denied; and it is further

ORDERED that plaintiff, BARBARA SUCHOW, have custody of the child, JUDITH WINIFRED SUCHOW; and it is further

ORDERED that defendant may have the right of visitation on Sundays between the hoursof 1 P.M. and 5 P.M.; and it is further

ORDERED that the defendant, S. MERRILL SUCHOW pay the sum of Fifteen ($15.) Dollars per week for the support of the child, JUDITH WINIFRED SUCHOW, commencing as of June 21, 1956, the return day of this motion, payable by check or money order to the plaintiff at 85-19 Palo Alto Street, Hollis, Queens, New York; and it is further

ORDERED, that defendant, S. MERRILL SUCHOW, be and he hereby is enjoined from removing the child, JUDITH WINIFRED SUCHOW from the jurisdiction of this Court; and it is further

ORDERED that the motion in so far as it seeks counsel fee is referred to the Trial Court for disposition.

E N T E R

D. K.
J. S. C.

GRANTED

Sept. 17, 1956

Paul Livoti,
Clerk

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MEMORANDUM

My father today seemed irrational all afternoon, raving in a way difficult to analyze for the hours between 3, when I returned home with my son from school, until five. My son was terribly upset, refused to eat anything after school, and ran out to his bicycle on tears. He disappeared until well after five, when it was dark, and in my anxiety I was running the surrounding streets looking for him.

Parrtly because I was attempting to work I could find no special focus surrounding the ranting of my father. It was generally abusive of me, part of the time of my son, who was called "that dopey" and a "bastard" within his own hearing. Occasionally he also refered to the work I was doing, by "He sits down there writing poison pen letters." This seems clear reference to something told him by my first wife, Barbara Moskowitz, though, in fact, I have not written to her in some months.

Whenever he goes into a rage like this it is usually because of some contact with Barbara. I know of none on this occasion, but from the nature of his rantings I assume that he has spoken with her.

In addition to my other problems of a professional nature, the loss of my darling Sally, and three of my children, it is extremely hard to bear. I continued at work all through the raving, and managed, by extreme self-control, to say nothing.

CHARLES MERRILL MOUNT
November 20, 1973
7.05 P.M.

EXHIBIT E

Charles M. Mount
308 Beach 145 Street
Neponsit, New York, 11694

May 12, 1973

Mrs. Barbara Cunther
177 Montague Street
Brooklyn, New York.

Dear Barbara,

You have shown your hand far too blatantly in the last days and I must insist that it stop. There is no doubt that all these dinners invitations, gifts, and roses, are an effort to deprive my four younger children in favor of Judith. That is something no father could permit. The whole project has reminded me of how you wrote on several occasions that you would not give me a divorce until my father's will was changed in your favor. Those letters still exist to demonstrate in what direction you are thinking, and to what purpose you have instructed Judith.

You have my word that I will see to it that Judith is always treated equally with my other children. With that settled you have no legitimate interest in this family. I want all contact to cease, not only with this house but with my aunts and uncles as well. Judith's best interests are served by maintaining her father's impartiality. A court might well consider that her mother is well able to provide for her, and my four younger children, being younger and seriously deprived at this moment, have needs that are not mere greed. Judith already has benefited from the estate of her great grandmother to the exclusion of her father and her brothers and sisters. A court might well consider that she is entitled to nothing more.

I should like you to respect my wishes without

EXHIBIT F

creating further friction. If, however, you insist on harrassing me and my children and interfering with our interests I will immediately seek an injunction.

Once and for all you must make up your mind that you abandoned our matrimonial home three times and we are divorced because of your adulterous conduct. There is nothing for you here. Please leave me alone and stay away from my relatives or find yourself obliged to do so under court order.

Sincerely,

Charles M. Mount

Charles M. Mount
308 Beach 145 Street
Neponsit, New York, 11694

August 14, 1973

Mrs. Barbara Gunther
177 Montague Street
Brooklyn, New York

Dear Barbara,

Once more I must bring to your attention that we are divorced. This letter will give you formal notice that if you draft a Will for any member of my family, if anyone associated with you does so, or if you recommend any lawyer to draft a Will for any member of my family, I will immediately bring it to the attention of the Bar Association as a question of ethics.

In addition I would contest any such Will.

Sincerely,

Charles M. Mount

EXHIBIT G

MEMORANDUM

This afternoon my parents have gone off secretly to an appointment with:

EDWARD BERNAS
50 Court Street
Brooklyn, N.Y.
625-0080

On returning home my mother telephoned to may Aunt Eva, complaining that it took so very long, that "there were two of them, and my husband was talking about his cousin." They have evidently drawn a will or wills. Nothing has been said to me comcerning the appointment, or with whom it was, or its purpose. Clearly this is the lawyer appointed for the purpose by my first wife, Barbara Moskowitz.

I am too busy with my own legal matters, and seven cases in court, to do much at this moment, though I considered sending a letter to the Brooklyn Bar Association, merely the record the events and the date.

Charles M. Mount
February 14, 1974

EXHIBIT H

MEMORANDUM

After 2.00 this afternoon my father, who normally uses the telephone in the kitchen, went off into his bedroom and made a call on the extension in his bedroom. He evidently was not aware that I was in my bedroom, which is the next room. He asked first for "Mr. Bernas" and unable to get him, asked next for Robert Lewis. The conversation, which was of some length, can be telescoped to this. My father explained that he was unable to contact his "daughter-in-law" to explain some parts of the will that was recently drawn by Mr. Lewis. (My father's only daughter-in-law is my wife, Sarah Mount, who is absent in Ireland. He must, therefore, be refering to Barbara Moskowitz, who divorced me in 1961, and who is a lawyer.) They arranged for an appointment next Tuesday, March 12, at 3.00 P.M. There was next some lengthy discussion over the fee, and since no figure was mentioned by my father I do not know its conclusion.

Throughout this conversation my father employed a forced personality, which was an effort at wit, and while missing that objective yet was totally different from his own normal manner.

That a man who is aged 74, and so agitated by years of excessive drug-taking and addiction as to be irrational, should be attempting to make a will under the guidance of a woman who divorced me 13 years ago appears to present a situation of some impropriety. I consider it to be inimical to the interests of my four children by my wife Sarah. My parents are both aware that yesterday at the Supreme Court of the State of New York, County of Queens, was a further hearing on the habeas corpus signed earlier by a Justice of that court, and which calls for the return of my three children PAUL HARRIS, ANNA SARAH, and EVA SARAH, to this country.

CHARLES MERRILL MOUNT
March 7, 1974
3.08 P.M.

EXHIBIT I

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CHARLES MERRILL MOUNT, Plaintiff, -against- ALLEN HERBERT ARROW, MICHAEL WARD STOUT, & JANICE LEACH, Defendants.	Docket No. 75-7270

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

CHARLES MERRILL MOUNT being duly sworn deposes and says: that I have this day duly made service of this Brief upon the defendants by their attorneys, Arrow Silverman & Parcher, P.C., 1370 Avenue of the Americas, New York, N.Y., 10019, by entrusting it in a sealed envelope properly addressed and with sufficient postage and placing same in an official United States Post Office depository box in Neponsit, Queens County, New York, 11694.

CHARLES MERRILL MOUNT

Sworn to before me this
23rd day of May, 1975.

NOTARY PUBLIC

MARILYN LIEF KRAMBERG
NOTARY PUBLIC, State of New York
Qual. in Queens Co. No. 41-4504744
Commission Expires March 30, 19 77

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CHARLES MERRILL MOUNT, Plaintiff, -against- ALLEN HERBERT ARROW, MICHAEL WARD STOUT, & JANICE LEACH, Defendants.	Docket No. 75-7270

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

CHARLES MERRILL MOUNT being duly sworn deposes and says: that I have this day duly made service if this APPENDIX upon the defendants by their attorneys, Arrow Silverman & Parcher, P.C., 1370 Avenue of the Americas, New York, N.Y., 10019, by entrusting it in a sealed envelope properly addressed and with sufficient postage and placing same in an official United States Post Office depository box in Neponsit, Queens County, New York, 11694.

CHARLES MERRILL MOUNT

Sworn to before me this
30th day of May, 1975.

(S)

NOTARY PUBLIC